

Report of:	Meeting	Date
Councillor David Henderson, Leader of the Council and Garry Payne, Chief Executive	Council	14 April 2022

<b>Constitution (Scheme of Delegation) Amendments</b>
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**1. Purpose of report**

1.1 To enable changes to be made to the Council’s Constitution.

**2. Outcomes**

2.1 More up to date and effective governance arrangements.

**3. Recommendation**

3.1 That Part 7.02 (Scheme of Delegation) of the Council’s Constitution be amended to reflect several changes to the current Executive and Non-Executive officer delegations.

**4. Background**

4.1 The Local Government Act 2000 requires all local councils to have a written Constitution. Most still very closely follow a national model drawn up when the 2000 Act was implemented. Reports are submitted by the Chief Executive on a regular basis to enable the Council to approve changes to the Constitution to take account of new legislation, changes to functions, structures, roles, responsibilities or procedures.

**5. Key issues and proposals**

5.1 The following changes are proposed to Part 7.02 – Scheme of Delegation:

Scheme of Delegations to Officers

5.1.1 An all-encompassing paragraph has been added to the Scheme to align the powers set out in the Local Government Act 1972 that allows Local Authorities to do anything which is calculated to facilitate, or is conducive or incidental to the discharge of their functions.

### Non-Executive Functions Delegated to the Chief Executive

- 5.1.2** To clarify that in consultation with the Head of Legal Services, the Chief Executive can make orders under s.91 of the Local Government Act 1972 (Para 1.7).

### Executive and Non-Executive Functions Delegated to the Corporate Director Environment

- 5.1.3** Amended to refer to the Environment Act 2021 (Para 2i and 1e).

### Executive Functions Delegated to the Corporate Director Resources (S151 Officer) and in their absence to the Head of Finance (Deputy S151 Officer)

- 5.1.4** The removal of the £2,000 compensation limit (per claim) in-line with the Local Government Act 2000 and the delegation from the Legal Services Manager (Para 16 and Para 4 (Executive Functions also delegated to the Legal Serviced Manager)).

### Executive Functions Delegated to the Legal Services Manager

- 5.1.5** Amended to reflect the current practice regarding the signing and/or sealing of any documents on behalf of the Council including any agreement, contract, notice, demand, order or other document (Para 1.7).

### Non-Executive Functions Delegated to the Legal Services Manager

- 5.1.6** Amended to reflect the current practice regarding the signing and/or sealing of any documents on behalf of the Council including any agreement, contract, notice, demand, order or other document (Para 1.8).
- 5.1.7** To clarify that in consultation with the Chief Executive, the Legal Services Manager can make orders under s.91 of the Local Government Act 1972 (Para 1.9).

### Non-Executive Functions Delegated to the Head of Governance and Business Support

- 5.1.8** To remove the reference to the Council carrying out appeals. The Council holds hearings, not appeals (Para 4).

### Non-Executive Functions Delegated to the Head of Planning Services

- 5.1.9** Amended to reflect the current practice and the powers in place in respect of breaches of planning control enforcement (Para 11).
- 5.1.10** Amended to reflect that it is an 'Authorities Monitoring Report' not an 'Annual Monitoring Report' (Para 29).

Executive Functions Delegated to the Head of Environmental Health and Community Safety

5.1.11 Amended to refer to the Environment Act 2021 (Para 1j).

Non-Executive Functions Delegated to the Head of Environmental Health and Community Safety

5.1.12 Amended to refer to the Environment Act 2021 (Para 1p).

Appendix to Paragraph 3 of the Executive Functions Delegated to the Head of Planning Services relating to Neighbourhood Planning

5.1.13 Minor changes have been made to this appendix to document current practices/decisions required.

5.2 A number of other minor amendments have also been made to the Scheme of Delegation. These have been 'track changed' throughout the document.

5.3 The proposed revised wording for Part 7.02 of the Constitution is attached at Appendix 1.

<b>Financial and legal implications</b>	
Finance	None arising directly from this report.
Legal	The Council is required to have an up to date Constitution, including Scheme of Delegation to ensure that all decisions are taken lawfully.

**Other risks/implications: checklist**

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

<b>risks/implications</b>	<b>✓ / x</b>
community safety	x
equality and diversity	x
sustainability	x
health and safety	x

<b>risks/implications</b>	<b>✓ / x</b>
asset management	x
climate change	x
ICT	x
data protection	x

## Processing Personal Data

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

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List of background papers:		
name of document	date	where available for inspection
None		

### List of appendices

Appendix 1 Part 7.02 of the Council's Constitution, Scheme of Delegation (with track changes).

## Scheme of Delegations to Officers

**Functions, matters, powers, authorisations, delegations, duties and responsibilities within this Scheme shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything specified.**

**All delegations to officers are subject to the following general conditions:**

1. All decisions taken must comply with the Council's approved budget, the Policy Framework, the Financial Regulations and Financial Procedure Rules and all other elements of the Constitution.
2. In the absence of the Chief Executive the functions of the Chief Executive will be the responsibility of any of the Corporate Directors.
3. An officer to whom a function is delegated may authorise another officer to exercise that function, provided that the other officer reports to or is responsible to the officer in question.
4. In the absence of the relevant officer, the Chief Executive and Corporate Directors shall have power to act subject to any statutory limitations.
5. Reference to any enactment, regulation, order or byelaw shall include any amendment or re-enactment, whether or not with amendments.

## Executive Functions Delegated to the Chief Executive

To discharge any executive function falling within the area of responsibility of the Chief Executive including, but not limited to, the functions set out in the paragraphs below.

1. To act as the head of paid service under section 4 of the Local Government and Housing Act 1989 and in this role:
  - (a) To exercise overall responsibility for corporate management and operational issues (including overall management responsibility for all staff);
  - (b) To give professional advice to all parties in the decision making process including the Council, Portfolio Holders, the Cabinet, Overview and Scrutiny and Regulatory Committees;
  - (c) Together with the Monitoring Officer, to be responsible for a system of record keeping for all the Authority's decisions;
  - (d) To represent the Authority on partnerships and external bodies as required by statute or by the Authority.
2. To carry out any function which is delegated to a Corporate Director or Head of Service subject to any limits or conditions attached to that delegation and statutory limitations.

3. To grant dispensations to Cabinet members prior to the taking of an executive decision in respect of which they have a conflict of interest pursuant to regulation 12 and 13 of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
4. To cancel or alter the time or the date of any meeting.
5. To take action within the Council's powers in cases of emergency or disaster and after consultation with the Chief Financial Officer (or his or her nominee) to incur expenditure (the Leader to be notified as soon as reasonably possible after the expenditure is incurred).
6. To take action within the Council's powers in cases of the absence or incapacity of the designated decision taker or in the failure of the Council in any year to agree executive arrangements by the statutory deadline for the holding of the Council's annual meeting.
7. To allow face-to-face meetings to be replaced with remote or hybrid arrangements where legislation permits.
8. To provide the necessary authorisations in respect of surveillance in accordance with the Regulation of Investigatory Powers Act 2000 where confidential information is involved or where authorisation is sought for employment of a juvenile or vulnerable covert human intelligence source (CHIS).
9. To exercise powers under the Civil Contingencies Act 2004 concerning emergency planning and response arrangements and to appoint a deputy officer for such purposes.
10. To receive and respond to expressions of interest under the Community Right to Challenge under Part 5 Chapter 2 Localism Act 2011.

### **Non-Executive Functions Delegated to the Chief Executive**

To discharge any non-executive function falling within the area of responsibility of the Chief Executive including, but not limited to, the functions set out in the paragraphs below.

1. To determine following consultation with the Chief Financial Officer, the early release of any employees, except the Corporate Directors, provided that the proposals are cost neutral to the Council over a specific period of time in accordance with the Council's Policy and the Council's External Auditors advice. (Proposals for the early release of the Chief Executive or any of the Corporate Directors must be considered by the full Council.)
2. To suspend a Corporate Director where their continued presence at work may prejudice an investigation or where there is a prima facie case of gross misconduct (the members of Cabinet to be notified as soon as possible after the action has been taken).
3. To approve changes to any document forming part of the Council's policy framework provided the proposed change:

- (a) Is prescribed by legislation or statutory instrument;
  - (b) Merely corrects a typographical error or errors; or
  - (c) Is of a minor nature i.e. the proposed change does not affect the substance of the document or change Council policy.
4. In respect of community governance reviews, to comply with the Council's duties and responsibilities under Chapter 3 Part 4 of the Local Government and Public Involvement in Health Act 2007.
5. To act as Returning Officer for elections and as the Council's Electoral Registration Officer.
6. As Returning Officer, to approve an annual increase in the fees and disbursements paid for Borough and Parish Elections.
7. [In consultation with the Legal Services Manager to make orders under s.91 of the Local Government Act 1972.](#)

### **Executive Functions Delegated to the Corporate Directors**

To discharge any executive function falling within the area of responsibility of the Corporate Directors including, but not limited to, the functions set out in the paragraphs below.

1. To engage, suspend, dismiss and deploy staff (in consultation with the officer responsible for strategic human resource issues) including:
  - (a) To review and amend the structure and staffing levels within approved budget provision;
  - (b) To fix commencing salaries for appointments and promotions as appropriate;
  - (c) To accelerate increments where specified levels of competence have been acquired;
  - (d) To re-grade posts in accordance with the Council's job evaluation scheme;
  - (e) To amend terms and conditions of employment;
  - (f) To deal with applications to take up outside appointments or engage in outside work for Officers at Grade 8 and above;
  - (g) To deal with applications for compassionate leave in excess of 10 days;
  - (h) To extend the time limit for lodging and travelling allowances up to 12 months in total;
  - (i) To deal with any matter relating to the payment of recruitment incentives within approved budget provision;

- (j) To take disciplinary action against staff.
- 2. To act as authorising officer for the purposes of the Regulation of Investigatory Powers Act 2000 and the Protection of Freedoms Act 2012.
- 3. Power to carry out surveillance which is / is not governed by the Regulation of Investigatory Powers Act 2000 subject to confirmation with the Legal services Manager and any member of the council's Corporate Management Team.
- 4. To make an application to a Justice of the Peace, in accordance with the Protection of Freedoms Act 2012, seeking an order approving the grant or renewal of a RIPA authorisation or notice and to represent the Council in making such an application.
- 5. In relation to the Property Investment Board, following their agreement (including the S.151 Officer), to approve investment in commercial properties up to £1,000,000 and funds permitting, in consultation with the Resources Portfolio Holder and to make recommendations for any commercial property investments over £1,000,000 to Cabinet.
- 6. To authorise appropriate staff to prosecute, defend or appear in the Magistrates Court, the county court, valuation panels and tribunals or other hearings.
- 7. To authorise injunctive proceedings.
- 8. To authenticate documents in connection with the exercise of executive functions.
- 9. To take proceedings for recovery of council owned land including forfeiture.
- 10. To waive fees and charges in exceptional circumstances.

### **Non-Executive Functions Delegated to the Corporate Directors**

To discharge any non-executive function falling within the area of responsibility of the Corporate Directors including, but not limited to, the functions set out in the paragraphs below.

- 1. To determine following consultation with the Chief Financial Officer, the early release of any employees, except the Chief Executive and Corporate Directors, provided that the proposals are cost neutral to the Council over a specific period of time in accordance with the Council's Policy and the Council's External Auditors advice. (Proposals for the early release of the Chief Executive or any of the Corporate Directors must be considered by the full Council.)
- 2. Determination of appeals against cautions and dismissals in accordance with the Council's Disciplinary and Capability Procedures where there has been no previous involvement with the decision making process.
- 3. To sign/seal documents on behalf of the Council including any agreement, contract, notice, demand, order or other document.



4. To commence, defend, conduct, settle and appear in any legal proceedings to protect the Council's assets or interests or relating to the Council's functions.

### **Executive Functions Delegated to the Corporate Directors and all Heads of Service**

To discharge any executive function falling within the area of responsibility of the Corporate Directors and all Heads of Service including, but not limited to, the functions set out in the paragraphs below.

1. To perform and/or carry out those functions of the Council within the relevant service area including:
  - (a) Incur, vary and discontinue expenditure;
  - (b) Manage the staffing, property, financial and other resources within their control;
  - (c) Procure works, goods and services, including accepting tenders subject to all necessary approvals being received. (Where other than the lowest price is accepted prior approval of the Chief Financial Officer is required);
  - (d) To sign contracts/agreements/demands/orders/notices or other documents on behalf of the Council;
  - (e) Dispose of surplus vehicles, plant, machinery or equipment in accordance with the Council's Financial Regulations and Financial Procedure Rules;
  - (f) Terminate contracts;
  - (g) Exercise virements within the limits set out in the Council's Financial Regulations and Financial Procedure Rules, namely, that virements of up to £5,000 be delegated to Corporate Directors and Heads of Service with virements of up to £20,000 requiring the approval of the Chief Financial Officer and with virements over £20,000 also requiring the approval of the Resources Portfolio Holder;
  - (h) Serve, receive and act upon notices, give or refuse consents, issue determinations, apply for permissions and make orders in the exercise of the Council's power and duties;
  - (i) Respond to consultations s from Government or other public bodies;
  - (j) Prepare bids for lottery and other external grant funding;
  - (k) Represent the Council on external bodies, partnerships or at other forums;
  - (l) Be responsible as client under the Construction (Design and Management) Regulations 2015 for all relevant projects undertaken by the Council within their service area.

2. To authorise any officer(s) under his/her control to exercise any of the functions delegated to him/her.
3. To deal with the following employment issues within their service area:
  - (a) Apply conditions of service;
  - (b) Make arrangements for staffing cover for a period of 24 weeks, including the appointment of temporary staff to cover periods of absence e.g. maternity, paternity, parental and adoption leave;
  - (c) To settle ex gratia payments in respect of loss or damage to the personal property of employees in consultation with the Council's Insurance Officer;
  - (d) Amend job descriptions of staff;
  - (e) Approve applications for leave of absence of up to 10 days in consultation with the officer responsible for strategic human resource issues;
  - (f) To approve overtime working within approved estimates;
  - (g) To approve acting up payments to officers undertaking additional responsibility associated with a higher graded post in consultation with the officer responsible for strategic human resource issues;
  - (h) To approve applications for job share where no additional financial burden falls on the Authority.
4. To alter normal opening hours in any buildings, premises or facilities owned or operated by the Council open to the public for specific events, public holidays or other urgent reasons.

### **Non-Executive Functions Delegated to the Corporate Directors and all Heads of Service**

To discharge any non-executive function falling within the area of responsibility of the Corporate Directors and all Heads of Service including, but not limited to, the functions set out in the paragraphs below.

1. To designate attendance at meetings and events as approved duties for the purpose of eligibility for travel and subsistence allowance where such attendance is in connection with the discharge of the Council's functions, including its executive function.

### **Executive Functions Delegated to the Corporate Director Environment**

To discharge any executive function falling within the area of responsibility of the Corporate Director Environment including, but not limited to, the functions set out in the paragraphs below.

1. The provision and management of the Council's Cemeteries under the Local Government Act 1972 and the Local Authorities Cemeteries Order 1977 as amended.
2. To exercise the powers conferred by the following legislation, and any regulations, orders, byelaws or other subsidiary legislation made thereunder and any enactments amending or replacing the same, and to appoint and authorise officers under any of the Statutes which fall within the remit of the Public Realm Operations Section, including appearance in court:
  - (a) Animal Boarding Establishments Act 1963;
  - (b) Anti-Social Behaviour Act 2003;
  - (c) Anti-Social Behaviour Crime and Policing Act 2014;
  - (d) Control of Pollution Act 1974;
  - (e) Dogs Act 1871;
  - (f) Dangerous Dogs Act 1991;
  - (g) Dangerous Dogs (Amendment) Act 1997;
  - (h) Dogs (Protection of Livestock) Act 1953;
  - (i) Environment Act 1995 and 2021;
  - (j) Environmental Protection Act 1990 (in so far as it is an executive function);
  - (k) Guard Dogs Act 1975;
  - (l) Household Waste Duty of Care Regulations 2005;
  - (m) Litter Act 1983;
  - (n) Local Government (Miscellaneous Provisions) Act 1982.
  - (o) Tort (Interference with Good) Act 1977;
  - (p) Town Police Clauses Act 1847;
  - (q) Waste Framework Directive 2008.
3. To be responsible for delivering the Council's statutory responsibilities in respect of the Forest of Bowland Area of Outstanding Natural Beauty.
4. To waive fixed penalty notices for breaches of environmental legislation, where such notices are deemed to have been served incorrectly.
5. To operate the Hedgerow Regulations 1997 on land in the Borough of Wyre including issuing a Hedgerow Retention Notice.
6. To take action on dangerous trees including those under S154 of the Highways Act 1980.
7. To issue cautions in accordance with the Home Office Circular 16/2008.
8. To operate the deployment of mobile cameras for environmental offences.
9. To obtain licences issued under the Licensing Act 2003.

### **Non-Executive Functions Delegated to the Corporate Director Environment**

To discharge any non-executive function falling within the area of responsibility of the Corporate Director Environment including, but not limited to, the functions set out in the paragraphs below.

1. To exercise the powers conferred by the following legislation and any regulations, orders, byelaws or other subsidiary legislation made thereunder and any enactments amending or replacing the same, and to appoint and authorise officers under any of the Statutes which fall within the remit of the Operations Section, including appearance in court:
  - (a) Animal Welfare Act 2006
  - (b) Anti-Social Behaviour, Crime and Policing Act 2014;
  - (c) Clean Neighbourhoods and Environment Act 2005;
  - (d) Control of Pollution (Amendment) Act 1989;
  - (e) Environment Act 1995 and 2021;
  - (f) Environmental Protection Act 1990 (in so far as it is a non-executive function);
  - (g) Health and Safety at Work etc. Act 1974
  - (h) Local Government (Miscellaneous Provisions) Act 1976;
  - (i) Refuse Disposal (Amenity) Act 1978;
  - (j) Licensing Act 2003;
  - (k) Gambling Act 2005;
  - (l) Zoo Licensing Act 1981;
  - (m) Dangerous Wild Animals Act 1976;
  - (n) Local Government (Miscellaneous Provisions) Act 1982;
  - (o) Caravan Sites and Controlled Development Act 1960;
  - (p) County of Lancashire Act 1984;
  - (q) House to House Collections Act 1939;
  - (r) Mobile Homes Act 2013;
  - (s) Scrap Metal Dealers Act 2013.
2. To take action pursuant to the Anti-Social Behaviour, Crime and Policing Act 2014 in connection with high hedges, including the service of remedial notices, action in default of remedial notices and authorising powers of entry to land under Part 8.
3. To instruct the legal team to make, confirm or revoke Tree Preservation Orders.
4. To instruct the legal team to serve notices and take action under Section 207 of the Town and Country Planning Act 1990 requiring the replacement of trees.
5. To deal with applications for felling or lopping trees included in a TPO or notification of intention to fell or lop trees in a conservation area.
6. To liaise with Lancashire County Council and deliver residual highway arrangements such as those relating to the maintenance of highway verges, trees and weed control.
7. To issue and serve notices requiring information as to the ownership, occupation and use of any land and to authorise proceedings in the event of non-compliance with any such notice.
8. To agree boating byelaws in accordance with the Local Government (Miscellaneous Provisions) Act 1976.

9. To make temporary reductions to car park fees, on specified car parks, during set times, for example during the pre-Christmas period, such changes to be limited in scope and aimed at promoting economic growth in the borough through higher use of the car parks by residents and visitors.
10. To issue and serve notices requiring information as to the ownership, occupation and use of any land and to authorise proceedings in the event of non-compliance with any such notice.

### **Executive Functions Delegated to the Corporate Director Communities**

To discharge any executive function falling within the area of responsibility of the Corporate Director Communities including, but not limited to, the functions set out in the paragraphs below.

1. To obtain licences issued under the Licensing Act 2003.
2. To ensure overall management responsibility for the promotion and proper management of the Wyre Community Lottery and for compliance with the regulatory regime as a whole, including holding a lottery operating licence under the Gambling Act 2005.

### **Executive Functions Delegated to the Corporate Director Resources (S151 Officer) and in their absence to the Head of Finance (Deputy S151 Officer)**

#### **Executive Functions not delegated to the Head of Legal Services**

To discharge any executive function falling within the area of responsibility of the Corporate Director Resources (S151 Officer) and in their absence to the Head of Finance (Deputy S151 Officer) including, but not limited to, the functions set out in the paragraphs below.

1. To consider compensation claims from an owner of land or premises for loss or expense incurred as a consequence of an asset being included in the Council's List of Assets of Community Value under Part 5, Chapter 3 of the Localism Act 2011 and, where necessary, to make payments in accordance with Regulations made under the Act.
2. To administer the Council's payroll function.
3. To undertake the proper administration of the Council's financial affairs in accordance with S151 of the Local Government Act 1972, Section 114 of the Local Government and Finance Act 1988 and the Accounts and Audit Regulations 2015.
4. To arrange all borrowing, financing and investment in line with the Council's Treasury Management Policy and in accordance with the CIPFA Code of Practice on Treasury Management.
5. To agree the deployment of reserves and provisions in accordance with their purpose.
6. To determine the amount of the council tax base.

7. To agree the NNDR1 and NNDR3 submissions in accordance with the Business Rates Retention Scheme.
8. To administer the Collection Fund on behalf of the Authority in accordance with section 89 and 90 of the Local Government Finance Act 1988.
9. To make appropriate banking arrangements on behalf of the Council.
10. To effect all insurances and manage the Council's insurance arrangements.
11. Power to write off bad debts without limit and to report these to the relevant executive member.
12. Responsibility for maintaining an adequate and effective system of internal audit.
13. To negotiate with debtors and waive approved fees and charges under exceptional circumstances and/or in appropriate cases.
14. To determine fees and charges in respect of summonses, Local Land Charge Searches, the recovery of costs and for inspecting and copying documents and access arrangements for viewing documents and registers in accordance with the relevant legislation.
15. To accept blight notices relating to properties affected by development or redevelopment in accordance with Section 150 of the Town and Country Planning Act 1990.
16. To settle maladministration claims against the Council and to agree compensation to persons adversely affected by maladministration, pursuant to section 92 of the Local Government Act 2000.

### **(Executive Functions also delegated to the Legal Services Manager)**

To discharge any executive function falling within the area of responsibility of the Legal Services Manager including, but not limited to, the functions set out in the paragraphs below.

1. In relation to executive functions, to commence, defend, conduct, settle and appear in any legal proceedings to protect the Council's assets or interests or relating to the Council's functions.
2. To take all action required by law to acquire or dispose of interests in land and property including leases, tenancy agreements and easements.
3. To take all steps prescribed by law to implement compulsory purchase orders and to make relevant payments.
- ~~4. To settle maladministration claims against the Council and to agree compensation to persons adversely affected by maladministration up to a maximum of £2,000 per claim, pursuant to section 92 of the Local Government Act 2000.~~

5. To implement an enforced sale including serving of notices, drawing up and sealing deeds, registering charges, taking possession and marketing the property in an appropriate manner and completing the sale of the property.

**Non-Executive Functions Delegated to the Corporate Director Resources (S151 Officer) and in their absence to the Head of Finance (Deputy S151 Officer)**

**(Non-Executive Functions also delegated to the Legal Services Manager)**

To discharge any non-executive function falling within the area of responsibility of the Corporate Director Resources (S151 Officer) and in their absence to the Head of Finance (Deputy S151 Officer) including, but not limited to, the functions set out in the paragraphs below.

1. To agree and enter into agreements pursuant to section 106 Town and Country Planning Act 1990 after consultation with the Head of Planning Services.

**Non-Executive Functions Delegated to the Legal Services Manager (Monitoring Officer) and in their absence to the Deputy Monitoring Officer**

To discharge any non-executive function falling within the area of responsibility of the Legal Services Manager (Monitoring Officer) and ~~to delegate in their absence~~ to the Deputy Monitoring Officer including, but not limited to, the functions set out in the paragraphs below.

1. To act as the Council's Monitoring Officer, in accordance with the provisions of the Local Government and Housing Act 1989.
2. To administer the Council's process, under the Localism Act 2011, for dealing with complaints of alleged breaches of the Wyre Code of Conduct and following consultation with the Independent Person to decide:
  - (a) To dismiss without further action, any complaint which he/she considers to be frivolous, vexatious, without merit or which otherwise fails to meet the preliminary tests set out in the Council's complaints process.
  - (b) That the complaint does not warrant a formal investigation and that an informal resolution be sought.
  - (c) That the complaint appears to amount to a breach of the Code of Conduct and to arrange for an investigation to be carried out, with the outcome to be reported to the Standards Committee.
  - (d) At the direction of the Standards Committee, when following an investigation, a breach of the Code of Conduct has been found, to agree a local resolution, in consultation with the Independent Person, subject to the complainant being satisfied with the outcome and subject to a summary report being submitted to the Standards Committee.

## Executive Functions Delegated to the Legal Services Manager

To discharge any executive function falling within the area of responsibility of the Legal Services Manager including, but not limited to, the functions set out in the paragraphs below.

1. To instruct external solicitors and/or counsel to represent the Council.
2. To review decisions to include land and/or buildings on the Council's List of Assets of Community Value, pursuant to section 92 of the Localism Act 2011 and to review decisions relating to compensation pursuant to section 99 of the Localism Act 2011 in respect of assets of community value.
3. To act as the Senior Responsible Officer for the purpose of Part 11 Regulation of Investigatory Powers Act 2000.
4. To determine exemptions for requests and carry out reviews made under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
5. To make an application to a Justice of the Peace, in accordance with the Protection of Freedoms Act 2012, seeking an order approving the grant or renewal of a RIPA authorisation or notice and to represent the Council in making such an application.
6. To perform the duties as indicated in the list of executive functions delegated to the Corporate Director Resources, Corporate Director Communities and Corporate Director Environment.
7. To sign and/or seal any documents on behalf of the Council including any agreement, contract, notice, demand, order, or other document.

## Non-Executive Functions Delegated to the Legal Services Manager

To discharge any non-executive function falling within the area of responsibility of the Legal Services Manager including, but not limited to, the functions set out in the paragraphs below.

1. To act as the Council's Monitoring Officer.
2. To exercise the powers conferred by the following legislation, and any regulations, orders byelaws or other subsidiary legislation made thereunder and any enactments amending or replacing the same, and to appoint and authorise officers under any of the Statutes which fall within the remit of the Licensing section:
  - (a) Animal Boarding Establishments Act 1963
  - (b) County of Lancashire Act 1984
  - (c) Criminal Justice and Public Order Act 1994
  - (d) Game Act 1831
  - (e) Health and Safety at Work etc. Act 1974
  - (f) Hypnotism Act 1952
  - (g) Local Government (Miscellaneous Provisions) Act 1976



- (h) Local Government (Miscellaneous Provisions) Act 1982
  - (i) Public Health Act 1936
  - (j) Riding Establishments Act 1964
  - (k) Town Police Clauses Act 1847
  - (l) Transport Act 1985
  - (m) Vehicle (Crime) Act 2001
3. To exercise functions under the Licensing Act 2003
4. In relation to the Gambling Act 2005, where no representations have been received or withdrawn:
- (a) To authorise officers pursuant to section 304;
  - (b) To determine applications for premises licenses;
  - (c) To determine applications for variation of premises licenses;
  - (d) To determine applications for transfer of premises licenses;
  - (e) To determine applications for a provisional statement;
  - (f) To determine applications for club gaming or club machine permits;
5. In respect of the Gambling Act 2005 and subordinate legislation:
- (a) Power to exchange information;
  - (b) Power to provide information to the Gambling Commission;
  - (c) Power to exercise functions relating to the registration and regulation of small lotteries.
6. To undertake the following functions in respect of the licensing of sex establishments under the provisions of Part II and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in accordance with the Council's Policy:
- (a) Determining applications for grant, renewal, transfer or variation of a licence where no relevant objections have been received;
  - (b) Cancellation of licence;
  - (c) Enforcement of the provisions of Part II and Schedule 3.
7. To perform the duties as indicated in the list of delegations to the Corporate Director Resources, Corporate Director Communities and Corporate Director Environment.
8. To sign and/or seal any documents on behalf of the Council including any agreement, contract, notice, demand, order, or other document
9. In consultation with the Chief Executive to make orders under s.91 of the Local Government Act 1972.

### **Executive Functions Delegated to the Head of the Contact Centre and ICT Services (interim arrangements)**

To discharge any executive function falling within the area of responsibility of the Head of the Contact Centre and ICT Services including, but not limited to, the functions set out in the paragraphs below.

1. To administer the calculation and payment of housing benefit and localised council tax support including the award of discretionary housing payments.
2. To authorise the investigation and prosecution of offences pursuant to the Council Tax Reduction Scheme (Detection of Fraud and Enforcement) (England) Regulations 2013 (in consultation with the legal team) and to agree the relevant sanctions and administrative penalties for use in the recovery of any overpayments of housing benefit and council tax support.
3. To take all necessary steps to undertake the calculation, collection, administration and recovery of Council Tax and Non-domestic rates, including the award of reliefs, the granting of discounts and dealing with appeals, in accordance with the Local Government Finance Act 2012, 1992 and 1988 (as amended from time to time) and government regulations and guidance.
4. To impose or quash penalties in accordance with Section 11 of the Local Government Finance Act 1992 (council tax discounts).
5. To make an application to a Justice of the Peace, in accordance with the Protection of Freedoms Act 2012, seeking an order approving a grant or renewal of a RIPA authorisation or notice and to represent to the Council in making such an application.

#### **Non-Executive Functions Delegated to the Head of the Contact Centre and ICT Services (interim arrangements)**

1. To approve the naming of streets and the numbering of properties under Section 17 and 18 respectively of the Public Health Act 1925.

#### **Executive Functions Delegated to the Head of Governance and Business Support**

To discharge any executive function falling within the area of responsibility of the Head of Governance and Business Support including, but not limited to, the functions set out in the paragraphs below.

1. Power to carry out surveillance which is not governed by the Regulation of Investigatory Powers Act 2000 subject to confirmation with the Legal Services Manager and any member of the Council's Management Team.
2. To determine whether or not land and/or property nominated as an 'asset of community value' under the provisions of Part 5, Chapter 3 of the Localism Act 2011 will be included in the Council's list of Assets of Community Value.
3. To submit reports, as the Council's designated Data Protection Officer, to the Information Commissioner's Office on breaches of the General Data Protection Regulations.

#### **Non-Executive Functions Delegated to the Head of Governance and Business Support**

To discharge any non-executive function falling within the area of responsibility of the Head of Governance and Business Support including, but not limited to, the functions set out in the paragraphs below.

1. To appoint members to the Independent Remuneration Panel.
2. To appoint Independent Members to the Audit Committee should legislation require this.
3. To convene a panel of any three councillors who are not in the Cabinet and have received the relevant training or can attend the required training before the appeal hearing takes place (and wherever practically possible to ensure that two are from the majority group and one from the minority group) to consider employment appeals in accordance with Council procedures.
4. To convene a panel comprising of any three members of the Licensing Committee to ~~consider applications for appeals~~ carry out hearings where under Licencing Act legislation it is necessary or appropriate for decisions to be made by a panel or sub-committee rather than the full Licensing Committee.
5. To make minor changes to the Constitution to correct clerical mistakes, make factual amendments (including changes to job titles) to comply with the law or reflect decisions made by or on behalf of the Council (as provided in Article 19.02 of the Constitution).

### **Executive Functions Delegated to the Head of Planning Services**

To discharge any executive function falling within the area of responsibility of the Head of Planning including, but not limited to, the functions set out in the paragraphs below.

1. To authorise the making of a direction under Article 4 of the Town and Country Planning General Permitted Development Order 1995 after consultation with the relevant Portfolio Holder.
2. To authorise Council employees and other persons acting on behalf of the Council to exercise powers of entry under the National Parks and Access to the Countryside Act 1949, the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990.
3. To be responsible, in consultation with the appropriate Cabinet Portfolio Holder, for all planning matters relating to Neighbourhood Development Plans and Orders under The Neighbourhood Planning (General) Regulations 2012 and the Planning Acts as amended, subject to certain decisions which are controversial or which are subject to objections which are not withdrawn.

The exception is the adoption of a Neighbourhood Development Plan or Order, which is reserved for Full Council.

The Head of Planning Services shall be free to refer any matter or decision to the appropriate Cabinet Portfolio Holder or to full Cabinet (as appropriate) for determination. The Head of Planning Services shall ensure that care is taken to identify any case within his/her delegated authority where unusual circumstances or other reasons suggest the desirability of Councillor consideration. To assist in this

process, the Cabinet Portfolio holder will be kept up to date of forthcoming decisions on Neighbourhood Planning matters.

Note: An explanatory schedule, setting out the stages in the Neighbourhood Development Plan process at which a decision will need to be taken, is attached as an Appendix to this Scheme of Delegation.

4.

To give written and issue community protection notices under the Anti-Social Behaviour, Crime and Policing Act 2014.

### **Non-Executive Functions Delegated to the Head of Planning Services**

To discharge any non-executive function falling within the area of responsibility of the Head of Planning including, but not limited to, the functions set out in the paragraphs below.

1. To determine of all forms of applications for permission, approval, consent, certificates and prior approvals/notifications, consultations and other determinations made under Town and Country Planning legislation, including legislation relating to listed buildings, conservation areas and hazardous substances, unless:
  - (a) A ward councillor representing the ward within which the application site lies or a ward councillor representing an adjoining ward has requested that the application be considered by the Planning Committee, subject to the request being received by the Head of Planning Services within 10 working days of the date of the email providing members with a link to the weekly list of planning applications, which includes the planning application requested.

Note: this exception shall only apply to applications for Planning Permission or Advertisement Consent and does not apply to resubmitted applications where no substantial change has been made to the original application which was refused or withdrawn. Where the councillor requesting the determination by Planning Committee is unable to attend the meeting to speak, consideration of a letter from that councillor will be at the discretion of the Chairman of the Committee.
2. To determine any matter relating to fees arising on applications under the Town and Country Planning Act 1990 subject to compliance with statutory provisions and Council policy.
3. To decline to determine repetitive applications for planning permission under the Town and Country Planning Act 1990, Planning and Compensation Act 1991 and the Town and Country Planning (Control of Advertisements)(England) Regulations 2007.
4. To determine applications for hazardous substances consent under the Planning (Hazardous Substances) Act 1990 and related powers.
5. To determine persons and agencies to be consulted and notified on the making of planning and other applications.

6. To determine whether planning or other applications should be subject to environmental impact assessment and if so, what information should be contained in assessments.
7. To revoke or modify planning permission following consultation with the Chairman or Vice Chairman of Planning Committee under Section 97 of the Town and Country Planning Act 1990.
8. To approve the terms of planning obligations under /Section 106 of the Town and Planning Country Act 1990 regulating the use or development of land.
9. To serve building preservation notices.
10. To issue discontinuance notices under the Town and Country Planning (Control of Advertisements) Regulations 2007.
11. To determine, in respect of any report of an alleged breach of planning control, whether or not it is expected to take formal enforcement action.
124. To issue, vary and withdraw enforcement notices for breach of planning control under the Town and Country Planning legislation.
132. In relation to listed buildings:
  - (a) To issue of listed building enforcement notices;
  - (b) To issue of repairs notices;
  - (c) To Execute urgent works including works in default.
143. To issue stop notices and temporary stop notices.
154. To issue breach of condition notices or planning contravention notices.
165. To Issue completion notices under S94 (2) of the Town and Country Planning Act 1990.
176. To authorise, make and confirm orders under S257 of the Town and Country Planning Act 1990 regarding the stopping up or diverting of footpaths/bridleways, subject to the applicant being responsible for the council's costs and to there being no outstanding objections.
187. To take steps to secure compliance with an enforcement notice either through prosecution, execution of works or by taking any other action under the Town and Country Planning Act 1990, Building Act 1984 and Planning Listed Buildings and Conservation Areas Act 1990 or any Regulation or orders made thereunder.
1948. To apply for injunctions restraining a breach of planning control.
2049. To take action, serve notices and enforce any notice served under section 215 Town and Country Planning Act 1990.
219. To authorise rights of entry on land under S196A of the Town and Country Planning Act 1990 in relation to potential breaches of planning control.

- ~~224.~~ To issue and serve notices requiring information as to the ownership, occupation and use of any land and to authorise proceedings in the event on non-compliance with any such notice.
- ~~232.~~ For the purposes of the Town and Country Planning (Enforcement Notices and Appeals) Procedure, to make a statement as to whether or not the Council would grant planning permission for the development alleged and, if so, on what conditions.
- ~~243.~~ To approve, in consultation with the relevant Portfolio Holder, any update to the Local Development Scheme.
- ~~254.~~ To comment whenever the Council is consulted by other public authorities or bodies on development proposals.
- ~~265.~~ To make comments to the Planning Inspectorate relating to any proposed nationally significant infrastructure project, within or impacting on the Borough when responses are required to be submitted by the Council within 56 days.
- ~~276.~~ In cases of urgency, and after consultation with the relevant Portfolio Holder, to authorise the making of a Direction under Article 4 of the Town and Country Planning (General Permitted Development) Order (1995) as amended.
- ~~287.~~ To authorise the execution of works in accordance with Section 54(1) of the Planning (Listed Building and Conservation Areas) Act 1990.
- ~~298.~~ To issue notices under Section 55 of the Planning (Listed Building and Conservation Areas) Act 1990.
- ~~3029.~~ To publish an ~~Annual~~Authorities's Monitoring Report.
- ~~319.~~ To apply for an injunction in relation to a listed building.
- ~~324.~~ To serve listed building preservation notices under S3 and S4 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and related powers.
- ~~332.~~ To enter land in Part 2 of the Brownfield Land Register under Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017.

Note: the Planning Development Manager is authorised to perform duties set out in paragraphs 1 ~~to~~- 7 and 20 of the Non-Executive Functions above and the Senior Planning Officers (Development Management) are authorised to perform duties set out in paragraph 1 of the Non-Executive Functions above.

### **Executive Functions Delegated to the Head of Engineering**

To discharge any executive function falling within the area of responsibility of the Head of Engineering including, but not limited to, the functions set out in the paragraphs below.

1. Responsibility for relevant tasks and permissive tasks under the Council's residual highways agreement with LCC.

2. To carry out works and place objects and structures on, in or over a highway for the purposes of providing a service for the benefit of the public or a section of the public such as seats, bus stops and shelters under Section 115B of the Highways Act 1980.
3. To take any necessary action under section 25 and 26 of the Local Government (Miscellaneous Provisions) Act 1976 where an excavation is accessible from a highway or place of public resort and is a danger to the public.
4. To arrange for the maintenance of coastal defences, water courses and pumping stations.
5. To exercise powers under the Land Drainage Act 1991.
6. To exercise powers in relation to local flood risk management.
7. To exercise the Council's functions as risk management authority as defined under section 6 of the Flood and Water Management Act 2010.
8. To exercise the Council's functions as designating and responsible authority as defined under Schedule 1 of the Flood and Water Management Act 2010.
9. To serve notices under S25 (maintaining the flow of watercourses) and S28 (cleansing of ditches) of the Land Drainage Act 1991.
10. To arrange maintenance of Fleetwood Ferry Dock and Knott End Landing Stage.
11. To operate the Decriminalised Parking Enforcement System in partnership with LCC and to determine representations and challenges and process appeals.
12. To arrange for the temporary prohibition of traffic on roads and closure of roads.

### **Non-Executive Functions Delegated to the Head of Engineering**

To discharge any non-executive function falling within the area of responsibility of the Head of Engineering including, but not limited to, the functions set out in the paragraphs below.

1. To exercise the powers conferred by the following legislation, and any regulations, orders, byelaws or other subsidiary legislation made thereunder and any enactments amending or replacing the same, and to appoint and authorise officers under any of the Statutes which fall within the remit of the Engineering Section, including appearance in court:
  - (a) County of Lancashire Act 1984;
  - (b) Highways Act 1980;
  - (c) Public Health Act 1936.
2. To make agreements and orders under S25 and S26 of the Highways Act 1980 regarding the creation of public footpaths.

## **Executive Functions Delegated to the Head of Housing and Community Services**

To discharge any executive function falling within the area of responsibility of the Head of Housing and Community Services including, but not limited to, the functions set out in the paragraphs below.

1. To act on behalf of the Council on all matters relating to the discharge of the housing functions of the Council, which include but are not limited to all functions under the provisions of housing legislation, public and private sector housing, homelessness, the administration of grants for improvement and repair of properties and housing strategy.
2. To receive and consider applications for and to approve or refuse to make grants for disabled facilities and discretionary housing assistance.
3. To assess, advise and where appropriate assist (including the award of discretionary housing assistance) all households presenting themselves as homeless or threatened with homelessness in accordance with relevant legislation and guidance.
4. To exercise the Council's responsibilities in relation to the implementation and administration/operation of the Choice Based Lettings Scheme.
5. To implement and exercise powers confirmed by the following legislation and any regulations, orders, byelaws or other subsidiary legislation made thereunder and any enactments amending or replacing the same, including instigating proceedings and authorising officers under any of the Statutes which fall within the remit of housing, buildings, blight and environmental protection:
  - (a) Building Act 1984;
  - (b) Environmental Protection Act 1990;
  - (c) Homelessness Act 2002;
  - (d) Home Energy Conservation Act 1995;
  - (e) Housing Acts 1985, 1988, 1996 and 2004;
  - (f) Housing Grants Construction and Regeneration Act 1989;
  - (g) Housing Health and Safety Rating System Regulations 2005;
  - (h) Houses in Multiple Occupation Regulations 2006;
  - (i) Local Government and Housing Act 1989;
  - (j) Local Government (Miscellaneous Provisions) Act 1982- section 29;
  - (k) Protection from Eviction Act 1977 (as amended by the Housing Act 1988);
  - (l) Public Health Act 1936 and 1961;
  - (m) Regulatory Reform (Housing Assistance) Order 2002.
6. To issue licences and generally to manage the Council's scheme for the selected licensing of private rented accommodation.
7. To consider the implementation of management orders in respect of void properties and empty dwelling management orders in respect of empty homes.
8. To create, review and maintain an advisory list of building contractors for renovation grants.



9. To approve house renovation grants together with making stage and final payments.
10. In consultation with the Corporate Director Resources, the taking of appropriate enforcement action in relation to Statutory Overcrowding, housing standards including requisition for information, the issuing of Improvement notices, Hazard Awareness Notices, Prohibition Orders, Demolition Orders and Minimal Energy Performance Standards. To exercise Power of entry, power to exercise works, power to purchase dwellings found on appeal to be hazardous and beyond repair at reasonable expense.
11. The taking of action in relation to House in Multiple Occupation (HMO) e.g. duty to licence HMOs where specified, power to implement a registration scheme, power to execute work to remove serious hazards or to remedy neglect of management, power to limit number of occupants, making of a Management Order, powers of entry.
12. Under the Redress Schemes for Letting Agency Work and Property Management Work (Requirement to belong to a scheme etc) (England) Order 2014 to set and impose a penalty charge (to a maximum of £5,000); to undertake the service and signing of notices; to consider and determine representations and objections; to recover the mandatory penalty through a certificate.
13. To ensure overall management responsibility for the promotion and proper management of the Wyre Community Lottery and for compliance with the regulatory regime as a whole, including holding a lottery operating licence under the Gambling Act 2005.

### **Non-Executive Functions Delegated to the Head of Housing and Community Services**

1. To issue and serve notices requiring information as to the ownership, occupation and use of any land and to authorise proceedings in the event of non-compliance with any such notice in accordance with s.16 of the Local Government (Miscellaneous Provisions) Act 1976.

### **Executive Functions Delegated to the Head of Built Environment**

To discharge any executive function falling within the area of responsibility of the Head of Built Environment including, but not limited to, the functions set out in the paragraphs below.

1. To make appropriate planning applications on behalf of the Council for any Council owned land and property assets where it is considered that a planning permission for an alternative use would be beneficial to the future management or disposal of the assets provided that the cost of making such an application does not exceed £10,000 per individual asset.
2. To negotiate, agree compensation and acquire properties identified by the Council and approved by Cabinet as appropriate for compulsory purchase under all appropriate Acts of Parliament.

3. To negotiate and agree terms for the granting of leases, licences and tenancy agreements to statutory undertakers for the implementation of infrastructure in accordance with their statutory obligations.
4. To agree terms for the granting, acquisition, variation or extinguishment of easements and wayleaves and where necessary to enter into Licences to enter third party land for the purposes of carrying out works.
5. To deal with all tenancy matters, including leases and licences, where the annual market rent or fee is less than £25,000 and the period of the licence or tenancy does not exceed 30 years.
6. To negotiate, agree terms and document all rent and licence fee reviews for all leases and licences granted by the Council, including serving of notices.
7. To take all appropriate action to recover possession of all land and buildings let by the Council in circumstances where the lessee, tenant or licensee has become bankrupt, insolvent or where such other grounds for forfeiture arise.
8. To approve building plans submitted to fulfil covenants previously imposed by the Council.
9. To deal with applications for variation or release of covenants imposed by the Council or its predecessors on the sale of property.
10. With respect to the shared ownership scheme at Jubilee Drive, Cleveleys:
  - (a) To agree the open market value of the properties for subsequent disposals;
  - (b) To instruct the Valuation Office Agency if necessary;
  - (c) To release the resale covenant to complete the purchase of the dwelling within the two month timescale.
11. To negotiate and agree, in consultation with the Corporate Director of Resources, any dilapidation claim arising from a lease or licence either granted by the Council or held by the Council.
12. To take appropriate action on behalf of the Council's market franchise rights including allowing quality rival markets for periods of not more than 14 days in any one year subject to the payment of a negotiated fee.
13. Subject to prior declaration as surplus to requirements, and observing the requirements of Section 123 of the Local Government Act 1972 to obtain the best price that can reasonably be obtained, to approve:
  - (a) The sale of land and buildings of up to £20,000 in any one case;
  - (b) The sale of property by public auction and to determine the reserve price.

14. To determine all applications under the Building Act 1984 for building regulation approval/rejection including applications for relaxation of Regulations and the following:
  - (a) To exercise the functions set out in Part 1 (power to make building regs) and Part 2 (supervision of building work);
  - (b) Section 24 (means of ingress and egress at certain buildings to which the public have access);
  - (c) Section 77 to 83 (dangerous buildings).
15. In consultation with the Legal Services Manager, to take all relevant enforcement actions under Sections 35 & 36 of the Building Act 1984 and in respect of breaches of the Building Regulations.
16. To exercise the functions set out in Sections 77 to 83 of the Building Act 1984 (Dangerous, ruinous and dilapidated buildings and notices in respect of intended demolition) including the authorisation of works in default.
17. To determine charges within the provisions of the Council's Scheme of Charges for Building Regulation Work.
18. To refuse or accept initial notices, final notices or building notices under the Building Act 1984.
19. To issue completion certificates in appropriate circumstances under the Building Regulations.

### **Non-Executive Functions Delegated to the Head of Built Environment**

To discharge any non-executive function falling within the area of responsibility of the Head of Built Environment including, but not limited to, the functions set out in the paragraphs below.

1. To issue and serve notices requiring information as to the ownership, occupation and use of any land and to authorise proceedings in the event of non-compliance with any such notice in accordance with s.16 of the Local Government (Miscellaneous Provisions) Act 1976.

### **Executive Functions Delegated to the Head of Environmental Health and Community Safety**

To discharge any executive function falling within the area of responsibility of the Head of Environmental Health and Community Safety including, but not limited to, the functions set out in the paragraphs below.

1. In so far as they are executive functions, to exercise the powers conferred by the following legislation, and any regulations, orders, byelaws or other subsidiary legislation made thereunder and any enactments amending or replacing the same, and to appoint and authorise officers under any of the Statutes, which fall within the remit of the Environmental Health and Community Safety team, including appearance at Court:
  - (a) Animals Act 1971;

- (b) Animal Health Act 1981;
- (c) Animal Welfare Act 2006;
- (d) Anti-social Behaviour, Crime and Policing Act 2014;
- (e) Breeding and Sale of Dogs (Welfare) Act 1999;
- (f) Criminal Justice and Police Act 2001 (S 19)
- (g) Clean Air Act 1993;
- (h) Control of Pesticides Regulations 1986;
- (i) Environmental Protection Act 1990;
- (j) Environment Act 1995 and 2021;
- (k) Equality Act 2010 (regarding taxi travel);
- (l) European Communities Act 1972  
EU Food Hygiene Regulations / Statutes as retained EU Law under the European (Withdrawal) Act 2018 as amended by the European Union (Withdrawal Agreement) Act 2020
- (m) Factories Act 1961;
- (n) Food Act 1984;
- (o) Food Safety Act 1990;
- (p) House to House Collections Act 1939;
- (q) Licensing Act 2003;
- (r) Local Government Act 1988;
- (s) Mobile Homes Act 1983;
- (t) Motor Salvage Operators Regulations 2002;
- (u) Noise Act 1996;
- (v) Noise and Statutory Nuisance Act 1993;
- (w) Pollution Prevention and Control Act 1999;
- (x) Salmon and Fresh Water Fisheries Act 1923 (Amendment) Act 1964;
- (y) Slaughter of Poultry Act 1967; and
- (z) Working Time Regulations 1998.

2. To exercise the provisions of an issue notices under Sections 43 and 48 of the Anti-Social Behaviour 2003.
3. Power to carry out surveillance which is not governed by the Regulation of Investigatory Powers Act 2000 subject to confirmation with the Legal Services Manager and any member of the Council's Management Team.
4. Power to carry out surveillance which is governed by the Regulation of Investigatory Powers Act 2000 as agreed by an authorising officer.
5. To make an application to a Justice of the Peace, in accordance with the Protection of Freedoms Act 2012, seeking an order approving the grant or renewal of a RIPA authorisation or notice and to represent the Council in making such an application.
6. To issue simple cautions for Adult Offenders under guidance effective from 13 April 2015.
7. To give written and issue community protection notices under the Anti-Social Behaviour, Crime and Policing Act 2014.

### **Non-Executive Functions Delegated to the Head of Environmental Health and Community Safety**

To discharge any non-executive function falling within the area of responsibility of the Head of Environmental Health and Community including, but not limited to, the functions set out in the paragraphs below.

1. In so far as they are non-executive functions, to exercise the powers conferred by the following legislation, and any regulations, orders, byelaws or other subsidiary legislation made thereunder and any enactments amending or replacing the same, and to appoint and authorise officers under any of the Statutes, which fall within the remit of the Environmental Health and Community Safety team, including appearance at Court:
  - (a) Animal Boarding Establishments Act 1963;
  - (b) Breeding of Dogs Act 1973;
  - (c) Breeding of Dogs Act 1991;
  - (d) Building Act 1984;
  - (e) Caravan Sites Act 1968;
  - (f) Caravan Sites and Control of Development Act 1960;
  - (g) Clean Air Act 1993;
  - (h) Clean Neighbourhoods and Environment Act 2005;
  - (i) Control of Pollution Act 1974;
  - (j) County of Lancashire Act 1984;
  - (k) Criminal Justice and Public Order Act 1994;
  - (l) Dangerous Dogs Act 1991;
  - (m) Dangerous Wild Animals Act 1976;
  - (n) Deer Act 1991;
  - (o) Environmental Protection Act 1990;
  - (p) Environmental Act 1995 and 2021;
  - (q) European Communities Act 1972 (re enforcement of the European Food Hygiene Regulations;
  - (r) EU Food Hygiene Regulations / Statutes as retained EU Law under the European (Withdrawal) Act 2018 as amended by the European Union (Withdrawal Agreement) Act 2020
  - (s) Food and Environment Protection Act 1985;
  - (t) Food Safety Act 1990;
  - (u) Gambling Act 2005;
  - (v) Game Act 1831;
  - (w) Guard Dogs Act 1975;
  - (x) Health Act 2006 and 2009;
  - (y) Health and Safety at Work Act 1974;
  - (z) Hypnotism Act 1952;
  - (aa) Licensing Act 2003;
  - (bb) Local Government and Housing Act 1989;
  - (cc) Local Government (Miscellaneous Provisions) Act 1976;
  - (dd) Local Government (Miscellaneous Provisions) Act 1982;
  - (ee) Materials and Articles in Contact with Food Regulations 2012;
  - (ff) Mobile Homes Act 1983 and 2013;
  - (gg) National Assistance Act 1948;
  - (hh) Noise and Statutory Nuisance Act 1993;
  - (ii) Offices, Shops and Railway Premises Act 1963;
  - (jj) Pet Animals Act 1951;
  - (kk) Poisons Act 1972;
  - (ll) Police, Factories etc. (Miscellaneous Provisions) Act 1916;

- (mm) Prevention of Damage by Pests Act 1949;
- (nn) Public Health Act 1936;
- (oo) Public Health Act 1961;
- (pp) Public Health (Control of Diseases) Act 1984;
- (qq) Rehabilitation of Offenders Act 1974 (in relation to enforcement of taxi licensing);
- (rr) Riding Establishments Act 1964;
- (ss) Riding Establishments Act 1970;
- (tt) Scrap Metal Dealers Act 2013;
- (uu) Slaughterhouses Act 1974;
- (vv) Sunday Trading Act 1994;
- (ww) Town Police Clauses Act 1847;
- (xx) Transport Act 1985;
- (yy) Vehicles (Crime) Act 2001;
- (zz) Water Industry Act 1991;
- (aaa) Water Resources Act 1991;
- (bbb) Zoo Licensing Act 1981.

2. To determine any action in accordance with the Policy for Taxi Licensing Enforcement.
3. After consultation with the Chairman of Licensing Committee, to revoke or suspend licences relating to hackney carriages, private hire vehicles, their operators or drivers.
4. To issue and serve notices requiring information as to the ownership, occupation and use of any land and to authorise proceedings in the event of non-compliance with any such notice.
5. To exercise functions under the Licensing Act 2003.

### **Executive Functions Delegated to RevenuesCompliance Manager and Senior Compliance Officers**

To discharge any executive function falling within the area of responsibility of the RevenuesCompliance Manager and Senior Compliance Officers including, but not limited to, the functions set out in the paragraphs below.

1. To make an application to a Justice of the Peace, in accordance with the Protection of Freedoms Act 2012, seeking an order approving the grant or renewal of a RIPA authorisation or notice and to represent the Council in making such an application.
2. Power to carry out surveillance which is not governed by the Regulation of Investigatory Powers Act 2000 subject to confirmation with the Legal Services Manager and any member of the Corporate Management Team.
3. Power to carry out surveillance which is governed by the Regulation of Investigatory Powers Act 2000 as agreed by an authorising officer.

**APPENDIX TO PARAGRAPH 3 OF THE EXECUTIVE FUNCTIONS DELEGATED TO THE HEAD OF PLANNING SERVICES RELATING TO NEIGHBOURHOOD PLANNING**

**Explanatory Schedule – expected stages where a decision will be required**

Decision Required	Process to be undertaken	Proposed Scheme of Delegation	Comments
<p><b>Designation of a Neighbourhood Forum</b></p> <p><i>(Neighbourhood Planning Regulations 2012 - Regulations 9 -10) as amended 2016)</i></p>	<p>Following receipt of the Neighbourhood Forum application, the local planning authority will undertake a six week consultation on the application.</p> <p>Representations submitted to the consultation will be considered when determining the application.</p> <p>The following time limits apply for determining a Neighbourhood Forum Application depending upon circumstances:</p> <ul style="list-style-type: none"> <li>• 6 week consultation with a further 14 weeks to make a decision (20 week overall limit) – this applies when the Neighbourhood Forum Application falls within two or more local planning authorities.</li> <li>• 6 week consultation with a further 7 weeks to make a decision (13 week overall</li> </ul>	<p>Decision to designate the Neighbourhood Forum is delegated to the Head of Planning Services, unless objections are received and not withdrawn, in which case the decision will be made by the Cabinet Portfolio Holder.</p>	<p>This stage would only apply for non-parished areas that are undertaking Neighbourhood planning.</p>

	limit) – this applies in all other cases.		
<p><b>Designation of a Neighbourhood Area</b></p> <p><i>(Neighbourhood Planning Regulations 2012 - Regulations 5A, 6 -7, as amended 2015 and 2016)</i></p>	<p>Following receipt of the Neighbourhood Area application, the local planning authority will undertake a consultation on the application.</p> <p>Representations submitted to the consultation will be considered when determining the application.</p> <p>The following time limits apply for determining a Neighbourhood Area Application depending upon circumstances:</p> <ul style="list-style-type: none"> <li>• 6 week consultation with a further 7 weeks to make a decision (13 week overall limit) – this applies when the Neighbourhood Area Application does not relate to the whole parish (and does not cover more than one local planning authority) or where the application is submitted by a Neighbourhood Forum;</li> <li>• 6 week consultation with a further 14 weeks to make a decision (20 week overall limit) – this applies when the Neighbourhood Area</li> </ul>	<p>Decision to designate the Neighbourhood Area is delegated to the Head of Planning Services, unless a consultation stage is required and objections are received and not withdrawn, in which case the decision will be made by the Cabinet Portfolio Holder.</p>	<p>The majority of Neighbourhood Area applications are expected to be straightforward and submitted by a Parish/Town Council for the whole parish. For such applications, there is a default approval of the Neighbourhood Area unless some or all of the proposed area has already been designated or pending determination through a separate proposal.</p> <p>For other applications as the majority of Neighbourhood Area Applications are not expected to be controversial, the proposed scheme of delegation will make it easier for the local planning authority to meet the target dates and also prevent unnecessary delay in the local planning authority issuing a decision.</p>



	<p>Application falls within two or more local planning authorities.</p> <p>Where a Neighbourhood Area application is submitted by a parish council for the whole of the parish council's administrative area, consultation on the application is not required, the local planning authority will designate the Neighbourhood Area in accordance section 61G of the 1990 Town and Country planning Act</p>		
<p><b>Signing off the local planning authority's representations on the pre submission draft</b></p> <p><i>Note: This is not a regulatory requirement but is considered best practice</i></p>	<p>The qualifying body is required to notify the local planning authority of the pre submission consultation. It is considered best practice for the local planning authority to submit representation at the pre submission stage to assist in Plan preparation.</p>	<p>Decision delegated to the Head of Planning Services, unless in his/her opinion the draft Plan and its content is considered to be controversial or of significant public interest in which case the decision will be made by the Cabinet Portfolio Holder.</p>	<p>The majority of Plans are not expected to be controversial and the aim of the local planning authority submitting comments on the pre submission draft is to assist the qualifying body in finalising the submission version for examination. It will also highlight potential areas for improvement to assist in the operation of the adopted Plan.</p>
<p><b>Publicising the Plan Proposal <u>or modification proposal</u> and submission to examination</b></p> <p><i>(Neighbourhood Planning Regulations 2012 - Regulations 16 -17) as amended 2017 and 2018)</i></p>	<p>The local planning authority is required to publicise the submission version when it is satisfied that the Plan submitted is valid and should be accepted and publicised.</p>	<p>Decision delegated to the Head of Planning Services, unless in his/her opinion the draft Plan is invalid and should not be published, in which case the decision will be made by the Cabinet Portfolio Holder.</p>	<p>The local planning authority need to check that the submission Plan accords with the requirements set out in regulation 15 of the Neighbourhood Planning Regulations 2012 as amended 2017 and 2018.</p>

<p><b>Signing off the local planning authority's representations on the submission draft</b></p> <p><i>Note: This is not a regulatory requirement but is considered best practice</i></p>	<p>It is considered best practice for the local planning authority to submit representation at the submission stage.</p>	<p>Decision delegated to the Head of Planning Services, unless in his/her opinion the draft Plan and its content is considered to be controversial or of significant public interest in which case the decision will be made by the Cabinet Portfolio Holder.</p>	<p>The majority of Plans are not expected to be controversial. The local planning authorities' representations on the submission Plan will be considered by the independent examiner and representation should address any outstanding areas or concern, this can also include support for the proposals.</p>
<p><b>Whether the local planning authority declines or accepts a repeat proposal</b></p> <p><i>(Schedule 4B of the Town &amp; Country Planning Act 1990)</i></p>		<p>Decision delegated to the Head of Planning Services, unless it is recommended that the repeat proposal should be declined, in which case the decision will be made by the Cabinet Portfolio Holder.</p>	<p>A repeat proposal is one where in the last two years, the local planning authority has refused to take forward a Plan or Order to referendum after examination or where a Plan or Order has failed at referendum.</p>

<p><b>Appointment of an examiner</b> <i>(Schedule 4B of the Town &amp; Country Planning Act)</i></p>	<p>A suitably qualified independent examiner should be appointed in consultation with the relevant qualifying body.</p>	<p>Decision delegated to the Head of Planning Services, unless the qualifying body objects to the appointment and the objection is not withdrawn, in which case the decision will be made by the Cabinet Portfolio Holder.</p>	<p>Appointment of an examiner is undertaken in consultation with the relevant qualifying body and an objection is not envisaged.</p>
<p><b>Actions to take following receipt of an Examiner's report and consideration of modifications.</b> <i>(Schedule 4B of the Town &amp; Country Planning Act 1990)</i></p>	<p>On receipt of the examiner's report, the local planning authority will have to consider the recommendations of the examiners' report, including whether the Plan meets the basic conditions and whether it can proceed to referendum.</p>	<p>Decision delegated to the Head of Planning Services, unless in his/her opinion the draft Plan and its content is considered to be controversial or of significant public interest in which case the decision will be made by the Cabinet Portfolio Holder.</p>	<p>It is envisaged that officers' and the qualifying body will have to jointly consider the recommendations. It will be the local planning <del>authorities</del> <u>authority's</u> decision whether the Plan proceeds to referendum.</p>
<p><b>Whether to make (adopt) a Neighbourhood Development Plan or Order following Referendum</b> <i>(Section 38A of the Planning &amp; Compulsory Purchase Act, 2004)</i></p>	<p>Adopting the neighbourhood plan/order as part of the Development Plan is a decision that has to be taken by Full Council.</p>	<p>The decision is reserved for Full Council.</p>	<p>Decisions of this nature are reserved for Full Council.  The Council needs to determine whether the 'making' of the Plan would be in breach, or otherwise be incompatible with any EU or human rights obligations.</p>