



Constitution

June 2022

CONTENTS

Part 1: Introduction & Short Guide to the Constitution

Part 2: Governance - How we run the Council and make decisions

2 Guide to Decision Making

Main Decision Making Bodies

2A The Council

2B The Cabinet

2C Overview and Scrutiny Boards

2D Local Committees

2E Audit & Assurance Committee

2F Cumbria Health & Wellbeing Board

2G Development Control & Regulation Committee

2H Pensions Committee

2I Staffing Committee

2J Standards Committee

2K Workington Harbour Board

Other Panels & Sub Groups

2L Chief Officers Panel

2M Constitution Review Group

2N Corporate Parenting Board

- 2O Pensions Investment Sub Group
- 2P Cumbria Local Pension Board
- 2Q Cumbria Fire Local Pension Board
- 2R Pensions Forum
- 2S Commissioning and Procurement Working Group
- 2T Nuclear Issues Working Group
- 2U Member Development Group
- 2V Independent Persons Panel

Part 3: Delegation to Officers

- 3A Scheme of Delegations to Officers
- 3B Qualified Person

Part 4: Members & Standards of Conduct

- 4A Role Description for all Members
- 4B Members' Code of Conduct & Guidance
- 4C Members' Allowances Scheme

Part 5: Rules & Procedures

- 5A Council Procedure Rules
- 5B Cabinet Procedure Rules
- 5C Overview and Scrutiny Procedure Rules
- 5D Access to Information Procedure Rules

- 5E Budget and Policy Framework Procedure Rules
- 5F Procedure for Budget Debate at Council
- 5G Financial Standing Orders
- 5H Contracts Procedure Rules
- 5I Officer Employment Procedure Rules
- 5J Annex to Constitution Dated 14 April 2020: Remote Meetings

Part 6: Policies & Protocols

- 6A Public Participation Scheme
- 6B Officers' Code of Conduct
- 6C Member/Officer Protocol
- 6D Anti-Fraud, Bribery and Corruption Policy
- 6E Whistleblowing Policy
- 6F Code of Good Practice for Members and Officers Involved in the Planning Process
- 6G Code of Practice for the Delegation of Planning and Enforcement Functions
- 6H Protocol for Notifying Local Members of Key Issues
- 6I Partnerships

Part 7: Glossary of Terms

Part 2: Guide to Decision Making

1. Principles of Decision Making

- 1.1 All decisions of the Council 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 Officers;
 - (c) Respect for human rights;
 - (d) A presumption in favour of openness and reasonableness
 - (e) Clarity of aims and desired outcomes; and
 - (f) An explanation of what options considered and the reasons for the final decision.

2. Types of Decision

- 2.1 The County Council's decision making structure is summarised below.

Decisions that can only be made by Full Council

- 2.2 Decisions relating to the functions listed in Part 2A of this Constitution will be made only by the Council.

Key Decisions

- 2.3 A key decision is significant in terms of expenditure or savings if it relates to a matter which exceeds £500,000 in value, except those decisions taken by:
- (i) the Chief Executive or Director of Finance under delegated authority in connection with treasury management;
 - (ii) the Executive Director – People under delegated authority in relation to care plans for individual children and young people or adults;

OR

Significant in terms of its effect on communities living or working in an area comprising two or more electoral divisions if it would change, or proposes changes to, the way in which services are used or provided. Significant in this context means important or far reaching.

Examples would include proposals for changing the character of a school, closing down or opening Council services, and major changes in transport arrangements affecting an area. This is not an exhaustive list of, and in considering whether a decision is a 'key decision', for the purposes of the Regulations the Council seeks to apply the principle that the public in the area affected should not be taken by surprise by the proposed decision.

- 2.4 A decision taker may only make a key decision in accordance with the requirements of the Access to Information Procedure Rules set out in Part 5D of this Constitution (paragraphs 13-17).
- 2.5 Generally, key decisions will only be made by the Cabinet, a committee of the Cabinet, a joint committee, a Local Committee or a Executive Director, the Chief Executive, the Director of Finance or the Chief Fire Officer. No officer other than an Executive Director, the Chief Executive, the Director of Finance or the Chief Fire Officer can take a key decision. For the avoidance of doubt if an Executive Director is not able to take a decision and the decision cannot wait then the Chief Executive may take the decision instead. Key decisions relating to the functional areas allocated to the CCCS Assistant Directors under the Scheme of Delegation in Part 3A can be made by the CCCS Assistant Directors.

Decision Making by the Council

- 2.6 The Council meeting will follow the Council rules set out in Part 5A of this Constitution when considering any matter.

Decision Making by the Cabinet

- 2.7 The Cabinet will follow the Cabinet Procedure Rules set out in Part 5B of this Constitution when considering any matter.

Decision Making by Scrutiny Advisory Boards and the Health Scrutiny Committee

- 2.8 Scrutiny Advisory Boards and the Health Scrutiny Committee will follow the Overview and Scrutiny Procedure Rules set out in Part 5C of this Constitution when considering any matter.

Decision making by Other Committees established by the Council

- 2.9 Local and Other Committees will follow those parts of the Council rules set out in Part 5A of this Constitution as apply to them (paragraph 23).

PART 3A: Scheme of Delegation to Officers

1. Introduction

- 1.1 This Part of the Constitution sets out the powers of officers of the Council to discharge the functions of the Council, including making decisions.
- 1.2 The Constitution sets out which decisions have to be made by the full Council, a Committee of the Council or by the Cabinet. All other functions of the Council are delegated to officers.
- 1.3 Officers acting under delegated powers can exercise the full range of powers necessary to discharge the Council's functions, including taking decisions, implementing decisions and managing the services, contracts and staff for which they are responsible.

2. Basis of Delegation

- 2.1 All functions of the Council, except those decisions that are specified as member decisions in the terms of reference of the full Council, a Committee or the Cabinet, or which by law have to be made by members, are delegated to officers.
- 2.2 In addition to this Scheme of Delegation, the full Council, Committees and Cabinet may delegate powers to officers, unless their terms of reference prohibit further delegation. Such delegations include the full range of powers to discharge the function, unless the decision of the member body limits these powers.
- 2.3 In this Scheme of Delegation, executive powers have been delegated to officers by the Leader of the Council under the Local Government Act 2000. Non-executive powers are delegated by the Council under section 101 of the Local Government Act 1972.
- 2.4 Where a power has been delegated to an officer the person or body that has delegated the function is not prevented from exercising the function.
- 2.5 Where a power is delegated to an officer "in consultation" with a member or another officer, the law requires that the discretion of the officer is not fettered. This means that the decision must be taken by the officer alone, and must not be a joint decision with the member or other officer, or a decision by a member in consultation with the officer.
- 2.6 The exercise of delegated powers by officers is subject to some qualifications. These are set out in the section Exercise of Delegated Powers, below.

3. Further Delegation by Officers

- 3.1 Except where the law or this Constitution requires a function to be discharged personally by a specific officer, or by an appointed deputy, any power delegated to the Chief Executive, an Executive Director, the Chief Fire Officer, the Director of Finance, the Chief Legal Officer or the Director of Public Health may be delegated by them to another officer, orally or in writing.
- 3.2 In the absence or the incapacity or the vacancy of the post of an Executive Director, an Assistant Director in his or her directorate may discharge any functions within the Assistant Director's area of responsibility.
- 3.3 Except where otherwise provided by law, when an officer exercises powers delegated to him or her by another officer, he or she does so in the name of the person who has delegated the power, who will remain ultimately responsible for ensuring the power has been exercised at the appropriate level by a suitably qualified and competent officer.
- 3.4 Any officer who is empowered by further delegation to take a decision may refer the decision to the person that delegated the power.

4. Referral of Decisions to Members

- 4.1 This Scheme of Delegation empowers officers to take decisions that are not specified as decisions of the full Council, a Committee or Cabinet. However:
 - (a) the Leader of the Council may decide that any Key Decision that an officer proposes to take, must be taken by the Cabinet.
 - (b) any officer who is empowered by this Scheme of Delegation or by a member body to take a decision may refer the decision to an appropriate member body.
- 4.2 Officers should note that members are only empowered by law to take certain staffing decisions. These are set out in the terms of reference of the full Council, Chief Officers Committee and Staffing Committee. 4.1 (b) above does not operate so as to permit officers to refer decisions to members that members are not by law able to take.

5. Exercise of Delegated Powers

- 5.1 When exercising delegated powers, officers must:
 - (a) comply with the law, the Council's Constitution and the Council's properly approved policies and procedures (in this order of priority) when discharging functions of the Council;
 - (b) comply with any limitations or restrictions on their delegated powers contained in any Part of the Constitution;

- (c) seek appropriate legal, finance and other specialist advice. Officers must have regard to any advice received;
- (d) consult the Chief Legal Officer and (except in the case of a decision of the Director of Finance) the Director of Finance before taking a delegated Key Decision;
- (e) consult the Chief Legal Officer before approving any settlement agreements with employees;
- (f) be satisfied before taking a decision, that they are authorised to take the decision and make and retain an appropriate record (in accordance with corporate procedures) of the decision and their authority to take it;
- (g) unless permitted by the Chief Executive during a civil emergency, not commit the Council to a course of action that will result in a financial obligation beyond the approved budget (revenue or capital) of their Directorate or the Council;
- (h) not delegate powers to the Council's contractors, consultants or other third parties except where authorised in the Scheme of Delegation.

6. Key Decisions

- 6.1 Only the Chief Executive, Executive Directors, [the CCCS Assistant Directors](#), the Director of Finance and the Chief Fire Officer have the power to take delegated Key Decisions.
- 6.2 An officer cannot delegate the power to take Key Decisions.
- 6.3 Each of the officers specified in paragraph 6.1 has power to take a Key Decision relating to the functional area of another officer, if delay in taking the decision, owing to the absence of that officer, would seriously prejudice the Council's or the public interest.
- 6.4 A Key Decision taken by an officer is subject to the rules of call in. *[insert link]*.

7. Proper Officers

- 7.1 Appendix 1 of this Part sets out the officers appointed as "proper officers" for certain statutory functions.
- 7.2 An officer who is appointed as a "proper officer" must carry out functions personally, subject to any statutory provision for the appointment of one or more deputies.

Delegations to Officers

8. General Powers of the Chief Executive, Director of Finance, Executive Directors and the Chief Fire Officer

- 8.1 The Chief Executive, Executive Directors, the Director of Finance and the Chief Fire Officer each have a general power to:
- (a) discharge the Council's functions, including taking decisions that are not specified in the Constitution or in law as having to be taken by elected members, implementing decisions, undertaking efficient management of the services, contracts and staff for which they are responsible;
 - (b) exercise any function specified as being the responsibility of their post (and any function for which they have been allocated or re-allocated responsibility by the Chief Executive) in any Part of the Constitution;
 - (c) commence, defend, settle or involve the Council in any potential or actual civil or criminal proceedings arising within their functional area in consultation with the Chief Legal Officer.
 - (d) sign any document in relation to their functional area with the exception (unless otherwise provided in this Scheme of Delegation) of certificates under the Local Government Contracts Act 1997, the Council's Accounts, and Contracts and Deeds where specific provisions are made in the Contract Procedure Rules.
- 8.2 Any Executive Director, the Director of Finance and the Chief Fire Officer may be appointed by the Chief Executive to deputise in her/his absence and in the absence of the Deputy Chief Executive, and when so appointed is authorised to exercise all the powers of the Chief Executive (including those of the Head of Paid service).

9. The Chief Executive

9.1 The Chief Executive is the Council's Head of Paid Service appointed in accordance with section 4 Local Government and Housing Act 1989 and has all the powers of the Head of Paid Service.

9.2 The Chief Executive is the returning officer for county elections appointed in accordance with section 5 of Representation of the People Act 1983.

9.23 The Chief Executive is appointed as the "proper officer" for the specified statutory functions set out in Appendix 1 of this Part.

9.43 The Chief Executive has power to exercise any function of the Head of Paid Service contained in any other Part of this Constitution.

9.54 The Chief Executive has power to exercise any function of the Council which is not specified in the Constitution or in law as a function that must be exercised by elected members, except the statutory functions of the Monitoring Officer.

9.65 The Chief Executive has specific powers to:

- (a) take any action and incur expenditure and delegate responsibility to take action and incur expenditure in the event of a civil emergency;
- (b) take any decision where any delay incurred in taking the decision would seriously prejudice the Council's or the public interest to the extent that it is appropriate to exercise emergency powers. In exercising this power, the Chief Executive must consult with the Leader of the Council or in his/her absence, the nominated deputy, unless the delay caused by doing so would itself be likely to result in danger to life or property. The Chief Executive will report any such decision to the next meeting of Council;
- (c) appoint proper officers of the Council and where there is no proper officer appointed for a specified function, the Chief Executive shall be the "proper officer" unless prohibited by law, until an appointment has been made;
- (d) allocate or re-allocate responsibility for functions in the Scheme of Delegation to Officers provided that any changes applicable for a period of more than six months must be reported to Council as a change to the Scheme of Delegation.

10. The Executive Director – People (Deputy Chief Executive)

10.1 The Executive Director – People is the Council's:

- (a) Director of Adult Social Services appointed in accordance with Section 6 (A1) Local Authority Social Services Act 1970.
- (b) Director of Children's Services appointed in accordance with Section 18 Children Act 2004 and designated person for the purposes of Section 22 of the Children Act 1989.

10.2 The Executive Director - People has been appointed as the Deputy Chief Executive and may exercise all the powers of the Chief Executive (including those of Head of Paid Service) during the absence or incapacity of or during the vacancy of the post of, Chief Executive.

10.3 The Executive Director - People has the full range of powers necessary to discharge the Council's functions, including taking decisions which are not specified in the Constitution or in law as having to be taken by elected members, implementing decisions and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional areas:

- (a) adults' services;
- (b) children and young people's services;
- (c) education and skills;
- (d) public health (except the statutory functions of the Director of Public Health);
- (e) the provision of residential and day services to children and adults including those provided by Cumbria Care ("Provider Services");
- (f) integration of health and social care services;
- (g) any other services allocated to the Executive Director by the Chief Executive.

10.4 The Executive Director – People has specific powers to:

- (a) determine, in consultation with the relevant Cabinet Portfolio Holder whether to undertake a consultation on a school organisation proposal where the Council is the proposer, provided that, decisions relating to school organisation must be referred to Cabinet for determination;
- (b) determine, following consultation with the Chair of the Holehird Trust grant applications for sums of less than £500, which cannot reasonably be deferred to the next meeting of the Trust, reporting all grants approved under this paragraph to the next meeting of the Trust;
- (c) nominate local authority governors to maintained schools in consultation with the relevant local member or the Chair and Vice Chair of the relevant Local Committee.

11. The Executive Director – Corporate, Customer and Community Services

~~11.1 The Executive Director – Corporate, Customer and Community Services is the returning officer for county elections appointed in accordance with section 5 of Representation of the People Act 1983.~~

~~11.2 The Executive Director – Corporate, Customer and Community Services is appointed as the "proper officer" for the specified statutory functions set out in Appendix 1 of this Part.~~

~~11.13 The Executive Director – Corporate, Customer and Community Services The Assistant Director – Organisational Change is the Council's Senior Information Risk Owner (SIRO).~~

~~11.24 The Executive Director – Corporate, Customer and Community Services The Assistant Director – Customer and Community Services is the Council's Scrutiny Officer.~~

~~11.35 The Executive Director – Corporate, Customer and Community Services The CCCS Assistant Directors each have~~ the full range of powers necessary to discharge the Council's functions, including taking decisions which are not specified in the Constitution or in law as having to be taken by elected members, implementing decisions and undertaking efficient management of the services,

contracts and staff for which ~~he/she is~~ they are responsible in the following functional areas:

- (a) strategic commissioning;
- (b) procurement and contract management;
- (c) corporate governance;
- (d) organisational change;
- (e) corporate people management;
- (f) policy and scrutiny;
- (g) information and communications technology;
- (h) facilities management;
- (i) digital technology and the Service Centre;
- (j) business support;
- (k) corporate health and safety;
- (l) community services, including libraries;
- (m) the Registration Service;
- (n) any other services allocated to the Executive Director by the Chief Executive.

~~11.45.4~~ In exercising these powers any of the CCCS Assistant Directors can act independently and is not required to consult with any of the other Assistant Directors.

~~11.5~~ The Executive Director – Corporate, Customer and Community Services Before exercising the power to award community investment grants the relevant CCCS Assistant Director will consult with the relevant local member(s) and the chair and vice-chair of the relevant local committee in exercising the power to award community investment grants.

12. The Executive Director – Economy and Infrastructure

12.1 The Executive Director – Economy and Infrastructure has the full range of powers necessary to discharge the Council's functions, including taking decisions which are not specified in the Constitution or in law as having to be taken by elected members, implementing decisions and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional areas:

- (a) highways;
- (b) transport;
- (c) traffic;
- (d) parking and parking enforcement;
- (e) rights of way;
- (f) common land;
- (g) control of development, including minerals and waste;
- (h) nationally significant infrastructure planning;
- (i) development management;
- (j) economic development;
- (k) trading standards;
- (l) weights and measures;
- (m) regulation of sports grounds;
- (n) Waste Authority functions;

- (o) Flood Authority functions;
- (p) land and property;
- (q) the environment;
- (r) the Port of Workington;
- (s) implementation of the approved Capital Programme;
- (t) any other services allocated to the Executive Director by the Chief Executive.

12.2 The Executive Director – Economy and Infrastructure has the specific powers to:

- (a) appoint members of the Cumbria Valuation Tribunal, in consultation with the President of the Tribunal, the Council's main political group leaders and Chairs of the relevant local committees;
- (b) authorise the issue of notices under Sections 14(2) (a) and (b) of the Road Traffic Regulation Act 1984 in circumstances where in the opinion of the Executive Director it is necessary for the restrictions or prohibitions sought to come into force without delay;
- (c) make Traffic Regulation Orders which involve the introduction of charging for on-street residents permits following a decision by the appropriate member body to introduce charges;
- (d) approve local impact reports in relation to nationally significant infrastructure projects under the Planning Act 2008, in consultation with the relevant Cabinet Portfolio Holder.

12.3 The Executive Director - Economy and Infrastructure has power to determine the following town and country planning applications:

- (a) any application for planning permission (not being an application submitted by the Council or the Council and a third party, or by an employee or a member of the Council) that:
 - (i) falls below the threshold of an Environmental Impact Assessment; and
 - (ii) is in accordance with the provisions of the Development Plan; and
 - (iii) has not been recommended for refusal by a Town or Parish Council; and
 - (iv) is not contrary to substantive written representations received; and
 - (v) has not attracted a request for determination by committee in accordance with the provisions of Part 6G of the Constitution;
- (b) any application for a certificate of lawfulness made under sections 191 and 192 of the Town and Country Planning Act (not being an application submitted by an employee or a member of the Council);

- (c) any application that is not defined in the relevant regulations as an application for planning permission, including submissions under conditions and non-material amendments.

In paragraph 12.3 “Substantive” means representations that are capable of being material planning considerations.

12.4 The Executive Director – Economy and Infrastructure will consult with the relevant local member(s) and the Chair and Vice Chair of the relevant local committee in exercising the following powers:

- (a) implementation of the highways revenue budget and capital programme;
- (b) authorisation of applications to the Magistrates Court for stopping up or diversion of highways within their Area, under the Highways Act 1980;
- (c) exercise of powers under the Cycle Tracks Act 1984;
- (d) authorisation of schemes for the making up and adoptions of private streets under Part XI the Highways Act 1980;
- (e) consideration of Public Spaces Protection Orders proposed to be made by the relevant district/borough council under sections 59 to 75 of the Anti-Social Behaviour, Crime and Policing Act 2014, which restrict a public right of way;

12.5 The Executive Director – Economy and Infrastructure will consult with the Chair and Vice Chair of the relevant local committee before entering into a funding agreement with a District Council in respect of a project funded under the Town Fund, Levelling-Up Fund, Future High Street Fund or any other similar government programme that provides funding for local schemes and which falls within the Local Committees responsibility under 5.1.2(a) and (b) of Part 2D: Local Committees.

12.6 The Executive Director – Economy and Infrastructure is the Duty Holder under the Marine Safety Code from time to time in force for the Port of Workington.

13. The Chief Fire Officer

13.1 The Chief Fire Officer has the full range of powers necessary to discharge the Council’s functions, including taking decisions which are not specified in the Constitution or in law as having to be taken by elected members, implementing decisions and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional areas:

- (a) Fire and Rescue Service;
- (b) Resilience and Emergency Planning;
- (c) Any other services allocated or re-allocated to the Chief Fire Officer by the Chief Executive.

13.2 The Chief Fire Officer is the Scheme Manager for the Fire Pension Scheme.

13.3 The Chief Fire Officer has the powers of an Executive Director to commence procurement and award contracts in his/her functional area.

14. The Director of Finance (Section 151 Officer)

14.1 The Director of Finance is the Council's chief finance officer appointed in accordance with section 151 of the Local Government Act 1972.

14.2 The Director of Finance may appoint one or more deputy Section 151 Officers each of whom has power to exercise all the powers and duties of the Section 151 Officer during the absence or incapacity of or during the vacancy of the role of, the Section 151 Officer.

14.3 The Director of Finance has power to exercise any function of the Director of Finance or Section 151 Officer contained in any other Part of this Constitution.

14.4 The Director of Finance is appointed as the "proper officer" for the specified statutory functions set out in Appendix 1 of this Part.

14.5 The Director of Finance is empowered personally to sign certificates under the Local Government and Contracts Act 1997 on behalf of the Council.

14.6 The Director of Finance has the full range of powers necessary to discharge the Council's functions, including taking decisions which are not specified in the Constitution or in law as having to be taken by elected members or another officer, implementing decisions and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional areas:

- (a) accounting and financial planning;
- (b) audit and risk;
- (c) pensions and financial services (including treasury management and banking);
- (d) performance;
- (e) the financing of the Capital Programme;
- (f) any other services allocated to the Director of Finance by the Chief Executive.

14.7 The Director of Finance has the following specific powers:

- (a) pay pensions, gratuities, grants etc. to members, other beneficiaries and creditors of the Cumbria Pension Fund, in accordance with the Superannuation and Pensions Acts and Regulations and agreed policies of the Council;
- (b) in consultation with members of the Investment Sub-Group (if any) of the Pensions Committee, to:
 - (i) appoint, or terminate the contracts of, investment managers with holdings of less than 5% of the portfolio of the Cumbria Local Government Pension Fund;

- (ii) approve the investment or disinvestment in any assets with a value of less than 5% of the portfolio of the Cumbria Local Government Pension Fund where the assets meet the criteria set out in the Cumbria Local Government Pension Fund's asset allocation strategy;
 - (iii) establish and review performance benchmarks and targets for investment.
- 14.8 Subject to paragraph 14.7 above, the Director of Finance has the powers of an Executive Director to commence procurement and award contracts in his/her functional area.
- 14.9 With regard to contracts incidental to the functions of the Cumbria Pensions Fund, the Director of Finance has, in addition, power to modify, vary and terminate such contracts.

15. The Chief Legal Officer (Monitoring Officer)

- 15.1 The Chief Legal Officer is the Council's Monitoring Officer appointed in accordance with sections 5 and 5A of the Local Government and Housing Act 1989 and has power to exercise all the powers and duties of the Monitoring Officer.
- 15.2 The Chief Legal Officer may appoint one or more deputy Monitoring Officers each of whom has power to exercise all the powers and duties of the Monitoring Officer during the absence, incapacity, conflict from acting or vacancy of the role.
- 15.3 The Chief Legal Officer is appointed as the "proper officer" for the specified statutory functions set out in Appendix 1 of this Part.
- 15.4 The Chief Legal Officer is appointed to act as the Senior Responsible Officer for the Regulation of Investigatory Powers Act 2000.
- 15.5 The Chief Legal Officer is empowered personally to sign certificates under the Local Government and Contracts Act 1997 on behalf of the Council.
- 15.6 The Chief Legal Officer has the full range of powers necessary to discharge the Council's functions, including taking decisions which are not specified in the Constitution or in law as having to be taken by elected members (except Key Decisions), implementing decisions and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional areas:
 - (a) Legal and Democratic Services;
 - (b) Coroners Services;
 - (c) any other services allocated or re-allocated to the Chief Legal Officer by the Chief Executive.

15.7 The Chief Legal Officer has power to exercise any function of the Chief Legal Officer or Monitoring Officer contained in any other Part of this Constitution.

15.8 The Chief Legal Officer has the specific powers to:

- (a) grant dispensations to elected or co-opted members to allow them, where they have a disclosable pecuniary interest in a matter to be considered at a meeting of the Council, or any of its committees or sub-committees, or the Cabinet or any committee or sub-committee of the Cabinet, to participate in any discussion of the matter in which they have the disclosable pecuniary interest at the meeting or to participate in any vote, or further vote, taken on the matter at the meeting; in any of the following circumstances:
 - (i) that so many members of the body have disclosable pecuniary interests that it would impede the transaction of business;
 - (ii) that without the dispensation, the representation of different political groups at the meeting would be so upset as to alter the likely outcome of the vote;
 - (iii) that without a dispensation no member of the Cabinet would be able to participate in a matter before Cabinet;
- (b) make minor amendments to the Constitution, including to update the Constitution in accordance with changes to legislation, provided that the amendment does not materially change any principles previously approved by the Council;
- (c) approve claims for expenses made by elected and co-opted members;
- (d) sign any document on behalf of the Council;
- (e) execute under seal any document of the Council;
- (f) serve any statutory or other notice on behalf of the Council;
- (g) issue, defend, settle, conduct or participate in any legal proceedings;
- (h) settle any potential legal proceedings;
- (i) authorise officers to prosecute, or defend, or appear in proceedings under section 223 of the Local Government Act 1972;
- (j) approve the Council's response to any investigation carried out by the Local Government Ombudsman;
- (k) approve the Council's response to any request for information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2003;

- (l) deal with the initial stages of the disciplinary procedure for the statutory officers (Chief Executive and S151 Officer), in conjunction with the appointed Chair of the Chief Officers Committee;
- (m) deal with the initial stages of allegations under the grievance procedure against the Chief Executive or S151 Officer;
- (n) to deal with the initial stages of allegations under the Bullying and Harrassment Procedure against the Chief Executive or S151 Officer.

16. The Director of Public Health

16.1 The Director of Public Health has been designated by the Council to discharge the statutory function of Director of Public Health in accordance with the National Health Service Act 2006.

16.2 The Director of Public Health has the full range of powers necessary to discharge the Council's functions, including taking decisions which are not specified in the Constitution or in law as having to be taken by elected members (except Key Decisions) and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional areas:

- (a) the statutory functions of the Director of Public Health;
- (b) employee health and wellbeing;
- (c) "Active Cumbria";
- (d) any other services allocated or reallocated to the Director of Public Health by the Chief Executive.

17. Regulation of Investigatory Powers Act 2000

17.1 The Chief Executive has the power under the Regulation of Investigatory Powers Act 2000 to authorise the use of covert human intelligence sources in respect of vulnerable individuals and to authorise surveillance where it is likely that knowledge of confidential information will be acquired.

17.2 The Assistant Director –Environment and Enterprise, Assistant Director – Highways and Transport and the Assistant Director – Integration and Partnerships each have power to issue all other relevant authorisations under the Regulation of Investigatory Powers Act 2000. In the absence of both of these officers the Monitoring Officer may issue authorisations.

17.3 These powers must be exercised personally by the officers specified in this Part.

18. Shareholders Representative

- 18.1 Any officer who is designated under this Scheme of Delegation or appointed by Council or by the Cabinet to act as a shareholders' representative on behalf of the Council for a company in which the Council is a shareholder is authorised to:
- (a) act as shareholders' representative in accordance with the Companies Act 2006;
 - (b) exercise all the Council's powers as a shareholder of the company, subject to any limitations in this Scheme of Delegation; and
 - (c) appoint a deputy shareholder's representative for any company for which they have been appointed shareholders' representative.
- 18.2 Any person appointed as a deputy shareholders' representative for a company is authorised to exercise the powers of the shareholders' representative in the absence or incapacity of the shareholder's representative or if there is no shareholder's representative appointed for the company.

PROPER OFFICERS

The officers specified in table below have been appointed as the proper officers for the specified statutory functions.

FUNCTION	LEGISLATION	PROPER OFFICER
LOCAL GOVERNMENT ACT 1972		
Witness and receipt of Declarations of Acceptance of Office	Section 83	Chief Executive
Receipt of notice of resignation of an elected member	Section 84	Chief Executive
Convening a meeting of the Council to fill a casual vacancy in the office of Chair	Section 88	Chief Executive
Receipt of notice of casual vacancy from two local government electors	Section 89	Chief Executive
Availability of agenda, reports and background papers Admission of press and public to meetings Exclusion of a document containing exempt information	Section 100A – 100H	Chief Executive
Receipt of money due from officers	Section 115	Director of Finance
Declarations and certificates with regard to securities	Section 146	Director of Finance
Functions with respect to ordnance survey	Section 191	Executive Director – Economy and Infrastructure
Charity functions of predecessor authorities transferred to the Council	Section 210	Director of Finance
Deposit of documents	Section 225	Chief Legal Officer
Certification of documents	Section 229	Chief Legal Officer
Authentication of documents	Section 234	Chief Executive Deputy Chief Executive Chief Legal Officer
Certification of byelaws	Section 238	Chief Legal Officer
Signature of Summons to council meetings	Schedule 12 paragraph 4	Chief Executive
Receipt of notice regarding address to	Schedule 12 paragraph 4	Chief Executive

which summons to meeting is to be sent		
Certification of resolutions	Schedule 14 paragraph 25	Chief Executive
Local Government Finance Act 1988		
Officer responsible as regards reports	Section 114	Director of Finance
Local Government and Housing Act 1989		
Deposit of politically restricted posts	Section 2(4)	Chief Executive
Receipt of notices relating to political groups	Sections 15-17 and Local Government (Committees and Political Groups) Regulations 1990	Chief Executive
Notice of Member electing to forgo their allowance	Section 18 and Local Authorities (members Allowances)(England) Regulations 2003	Chief Executive
Countryside and Rights of Way Act 2000		
Access to the Countryside	Section 1	Executive Director – Economy and Infrastructure
Local Authorities (Standing Orders) (England) Regulations 2001		
Giving notice to Cabinet in respect of chief officer appointments	Whole Standing Order	Chief Executive
Registration Services Act 1953		
Interim superintendent registrars and registrars/ Local Schemes of Organisation	Registration Services Act 1953	Executive – Director – Corporate, Customer and Community Services
Weights and Measures Act 1985		
Chief Inspector of Weights and Measures	Section 75	Trading Standards Manager

SHAREHOLDERS REPRESENTATIVES

The officers specified below are authorised to exercise the powers of the shareholders representative for the company or companies indicated in the table and subject to any limitations specified in the table.

Company	Officer
Cumbria County Holdings Limited and Group Companies	Director of Finance
Border to Coast Pensions Partnership Limited	<p>Director of Finance</p> <p>Authorised to act in the following circumstances:</p> <ol style="list-style-type: none"> 1. In consultation with the Chair of the Pensions Committee (or in his or her absence the Vice Chair) to make the following decisions on behalf of the Council as shareholder of the Border to Coast Pensions Partnership: <ol style="list-style-type: none"> 1.1 to enter into or materially vary any licence or other similar agreement relating to intellectual property to be licensed to or by the Company which is otherwise than in the ordinary course of the Business; 1.2 to approve the appointment of the auditors of the Company; 1.3 to alter the Company's accounting reference date; 1.4 to make any significant change to any of the Company's accounting or reporting practices other than conforming with any changes made to the accounting standards adopted by the Company; 1.5 to approve the annual accounts of the Company;

	<p>1.6 to enter into or vary any operating lease either as lessor or lessee, of any plant, property or equipment of a duration exceeding 5 years or involving aggregate premium and annual rental payments in excess of £100,000 (unless provided for in the Initial Strategic Plan or any Subsequent Strategic Plan);</p> <p>1.7 to approve the adoption of (and any amendment of) any written conflicts policy; and</p> <p>1.8 to approve any conflict or potential conflict of interest any director may have which would preclude him or her from being included in the quorum of any meeting of the directors.</p> <p>2. In consultation with the Chair of the Pensions Committee (or in his or her absence the Vice Chair) to make any other decisions reserved to the Council as shareholder of the Border to Coast Pensions Partnership where a shareholder decision is urgent and cannot reasonably be deferred, provided that all decisions taken are reported to the next meeting of the Pensions Committee.</p>
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Part 7: Glossary of Terms

This glossary of terms incorporates the separate glossary of terms included in Part 4H 'Financial Standing Orders' and Part 4I 'Contract Procedure Rules'. Where terms are unique to these Parts of the Constitution these have been indicated below.

- **“Accountable body”** the arrangement whereby the County Council has agreed to accept responsibility for the obligations set out in the terms of any funding granted to a third party organisation.
- **“Amendment of approved budgets”** in respect of the revenue budget is the transfer of resources; to or from contingencies, to and from general reserves, and, to and from earmarked reserves. In respect of the capital budget it is the inclusion of a new scheme in the capital programme. Amendments to the revenue and capital budgets involve a formal process of approval.
- **“Assets”** include land, buildings, vehicles, furniture and equipment, computer systems, stocks and materials, money and investments, data and information.
- **“Award Criteria”** has the meaning given in the Public Contracts Regulations 2006 or any statutory replacement thereof.
- **“Budget”** means plan for revenue and capital expenditure and income, and financing relating to activities of the County Council.
- **“Budget line”** is the lowest level of detail at which approval of the original budget takes place, as included in the medium term financial plan.
- **“Budget Manager”** means accountable budget manager and devolved budget manager.
- **“Cabinet”** means the Leader of the Council and such other members of the Council as the Leader may appoint, and is the main decision making body of the County Council.
- **“Candidate”** Has the meaning given in the Public Contracts Regulations 2015.
- **“Capital Programme”** means the overall five year programme of schemes approved by Council.
- **“CCCS Assistant Directors”** means the Assistant Director – Customer and Community Services, the Assistant Director – Organisational Change, the Assistant Director – Strategic Commissioning and the Assistant Director – Workforce and Organisational Change and all references in the Constitution to the Executive Director – Corporate, Customer and Community Services shall refer to each of the CCCS Assistant Directors
- **“Consultant”** an individual, firm or company (not being a firm of Solicitors, a Solicitor or a Barrister) procured to provide professional services, including advice.
- **“Contractor”** has the meaning given to the definition “economic entity in the Public Contract Regulations 2015.
- **“Contracts Register”** the County Council’s database of contracts.
- **“Council”** means full Council

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- **“County Council”** means Cumbria County Council.
- **“Director”** (in the context of Part 4H only) means the County Council’s Chief Executive and all senior officers designated as Executive Directors, or reporting to Executive Directors and with delegated financial responsibilities nominated by the Executive Director.
- **“EU Procedure”** the procedure set out in the Public Contracts Regulations 2015 applicable to the procurement exercise being undertaken.
- **“EU Threshold”** the financial threshold at which contracts must be procured using the EU Procedure.
- **“Executive Decision”** means a decision taken by the Leader and Cabinet and also certain Local Committees and officer decisions which have been delegated to them by the Leader.
- **“Executive Director”** means the officer posts of Executive Director -People, Executive Director -Economy and Infrastructure, Executive Director –Corporate, Customer and Community Services.
- **“Executive Function”** means those functions of the council which the Local Government Act 2000 states are to be the responsibility of the Leader and Cabinet. These are the vast majority of the council’s functions, some of which the Leader has delegated to Local Committees and Officers.
- **“Executive Member”** means any member of the Cabinet.
- **“Exemption”** (in the context of Part 4I only) a disapplication of the Contract Procedure Rules.
- **“Financial Regulations”** means financial standing orders.
- **“Financial Year”** is the County Council’s accounting period which runs from 1st April to 31st March.
- **“Framework Agreement”** has the meaning given in the Public Contracts Regulations 2015.
- **“Guidance”** (in the context of Part 4I only) the County Council’s Commissioning/ Procurement Cycle and Process Mapping Guidance (including relevant internal mini gateway review procedures, where required) or any replacement of such Guidance
- **“Head of Paid Service”** means the Chief Executive.
- **“Internal Audit”** means the Management Audit Unit.
- **“Lead Body”** the arrangement whereby the County Council is the applicant and/or recipient of an external grant or other funding for a special purpose.
- **“Leader”** means the Leader of the Council.
- **“Leader of the Largest Opposition Group”** means Leader of the Largest Main Group which is not represented in Cabinet
- **“Leader of the Second Largest Opposition Group”** means Leader of the second largest Main Group which is not represented in Cabinet
- **“Main Group”** is a group with a minimum of eight members (i.e. 10% of the total membership of the Council).
- **“Medium Term Financial Plan”** incorporates the revenue budget and capital programme approved by Council for the forthcoming financial year together with indicative figures for the subsequent two financial years.