

Part 2 – Section 6: Officer Scheme of Delegation

This part of the Constitution sets out the ways in which the Chief Officers of the Council can make decisions and which decisions they have power to make.

It is separated into four parts:

Part 1 – Introduction

Part 2 – General Delegations

Part 3 – Delegations to Chief Executive and Chief Officers

Part 4 – Statutory Officer and Proper Officer Appointments

Chief Officers are able to further delegate responsibility for decision making to other officers who report to them. The idea is that the work can be done at the most efficient level possible but, at all times, the Council, the Leader and the Chief Officers remain responsible.

1 INTRODUCTION TO THE OFFICER SCHEME OF DELEGATION

- 1.1 **“Officers”** is the term used to refer to the people employed, retained or appointed by the Council to advise and support Councillors and implement their decisions. The term “officers” in this Constitution includes all the people who operate in this capacity including contractors, consultants and agency staff.
- 1.2 The Council operates a “cascade” principle of delegation to ensure that decisions are taken at the most appropriate level closest to those who will be affected. This means that the vast majority of the Council's decisions and actions will fall into the category of operational day to day decisions taken by its officers.
- 1.3 In order to ensure the smooth functioning of the Council and the efficient delivery of services, **Council**, the **Leader** and the **Executive** have delegated to officers all of the powers that they need to perform their roles. This scheme describes powers and functions reserved to particular statutory or proper officers as well as the more general authority as granted by Council and the Executive to be able to implement decisions and to undertake and operate the Council's functions. Additional authority to act, or reservations to any authority granted, may be set out in a decision of the Council, a Committee or Executive or through a separate Leader's or Committee's Scheme of Delegation
- 1.4 Certain officers have specific legal duties and powers to ensure that the Council acts within the law, uses its resources wisely and exercises its powers properly. These officers are known as “Statutory” or “Proper” Officers and some have specific legal titles in addition to their job titles.
- 1.5 The way the Council structures its services and its officer arrangements changes from time to time to reflect changes in service delivery and best practice. The current arrangements include a Chief Executive/Head of Paid Service (as the most senior officer of the Council) supported by a number of Chief Officers.
- 1.6 See the current organisational structure of the Council, showing more detail about the roles and responsibilities of the Chief Officers and the officers supporting them to deliver all the Council's services.

General Principles Relating to Officer Delegation

- 1.7 For the purposes of officer delegated powers, both within this part and any other part of the Constitution, the term “Chief Officer” shall include the following officers:
 - 1.7.1 The Chief Executive and Head of Paid Service
 - 1.7.2 The Monitoring Officer
 - 1.7.3 The Section 151 Officer (Chief Finance Officer)
 - 1.7.4 The Assistant Chief Executive – Strategy, Policy and Performance
 - 1.7.5 The Director of Adult Social Care and Housing

- 1.7.6 The Director of Business Transformation and Change
 - 1.7.7 The Director of Children and Family Wellbeing
 - 1.7.8 The Director of Place, Sustainable Growth and Transport
 - 1.7.9 The Director of Public Health and Communities
 - 1.7.10 The Director of Resources
- 1.8 This scheme gives the power for the Chief Officers to take decisions in relation to all the functions in their areas of responsibility except where:
- 1.8.1 a matter is prohibited by law from being delegated to an **Officer**; or
 - 1.8.2 a matter has been specifically excluded from delegation under this scheme by a decision of the **Council**, a Committee or Sub-Committee.
- 1.9 The cascade principle under which this scheme operates means that any officer given powers under this scheme can further delegate those powers to other officers through a Local Scheme of Delegation (which sets out all the standing delegations given to specific officers in defined areas of the Council's service areas). A full list of the Local Schemes of Delegation is available on the Council's website and you can look at any of the schemes in detail.
- 1.10 All Local Schemes of Delegation (and any changes to them) must be agreed by the relevant Chief Officer and the Monitoring Officer.
- 1.11 Where a function has been delegated to an **officer** (including where sub-delegated through the cascade principle), the person or body making the delegation may at any time take back responsibility for the function and may therefore exercise the function (make the decision) despite the delegation.
- 1.12 In some circumstances the **officer** to whom a power has been delegated may consider a matter to be of such importance or sensitivity that their delegated authority should not be exercised. In these circumstances he or she may refer the matter back to the delegator for determination.
- 1.13 Any power delegated or cascaded under this Scheme can be exercised by the relevant Chief Officer and in all cases by the Chief Executive personally, with the exception of those statutory functions delegated exclusively to the Council's **Chief Finance Officer** or the **Monitoring Officer**.
- 1.14 The powers of this Scheme are delegated to the officers referred to by title within this Scheme of Delegation. So the delegations apply to whoever holds that post title at any time – not to the individual person. The powers are automatically transferred to any successor officer, to whom the functions are allocated following any reorganisation of the Council's management arrangements, irrespective of a change in the title/name of the officer post. Nominated Deputies are able to exercise all functions of the person delegating the functions.

- 1.15 Delegations relate to all provisions for the time being in force under any applicable legislation and cover functions of the Council and all powers and duties incidental to that legislation
- 1.16 Any delegation must be exercised:
- 1.16.1 In accordance with the **Budget and Policy Framework**, all the Council's Procedure Rules, the Pay Policy Statement approved annually and the Officer Code of Conduct;
 - 1.16.2 In accordance with the decision-making requirements set out in the Constitution, including requirements for decision-records and access to information;
 - 1.16.3 In accordance with any appropriate legislative, regulatory, consultation, equalities or procedural requirements that may be required; and
 - 1.16.4 Having identified and managed appropriate strategic and operational risks within the officer's area of responsibility
- 1.17 Officer decisions must be evidenced in writing using the agreed standard form, dated and signed by the officer exercising the delegated authority.
- 1.18 An **officer**, in exercising delegated powers may consult the relevant Committee Chair or executive Councillor if they consider it appropriate to do so and shall consult other appropriate officers for professional advice including legal, financial and technical officers and shall have regard to any views and advice received.
- 1.19 Whenever legislation is amended or replaced by new provisions, then the relevant delegated authority in this scheme applies to those new provisions. Whenever new legislation relevant or related to the functions exercised by the Chief Officer is introduced, that officer will have the delegated authority to exercise powers or otherwise take action under that legislation until such time as the **Council**, the executive, a Committee or the **Chief Executive** decides to whom to allocate responsibility for the new legislation.
- 1.20 Chief Officers may, by notice in writing addressed to the Monitoring Officer, appoint another officer to act as their deputy in their absence and such deputy shall have all the powers of the Chief Officer as set out in this Constitution. A deputy may be appointed in relation to all the areas of service delegated to the Chief Officer under this Constitution or in relation to a particular area of service only. A deputy may be appointed for a specific period of time (for example to cover the absence of a Chief Officer) or without time limitation. The appointment of a deputy shall not prevent the exercise by the Chief Officer of any delegation set out in this Constitution.
- 1.21 If there is any dispute or lack of clarity as to which Chief Officer has power to make decisions on specific areas of service, the Chief Executive shall have power to determine where the delegation should be exercised.

2 GENERAL DELEGATIONS

- 2.1 The following delegations shall apply to all Chief Officers (and to any appointed deputies) in relation to their sphere of management responsibility:

Urgent action

- 2.2 To act on behalf of the Council in cases of urgency in the discharge of any function of the Council for which their Directorate or Service has responsibility, other than those functions which by law can be discharged only by the Council, the Executive, or a specific Committee. A decision will be urgent where any delay would seriously prejudice the legal or financial position of the Council or the interests of the Members of the Public of the Council's area. This delegation is subject to the conditions that any urgent action:

- 2.2.1 shall be reported to the next meeting of the appropriate Committee;
- 2.2.2 shall take account of advice of the **Monitoring Officer** and the **Chief Finance Officer**;
- 2.2.3 shall be exercised in consultation with the Leader (in relation to executive functions) or the Chair (in relation to Council functions), or their deputies; and
- 2.2.4 is in line with the Access to Information Procedure Rules and Budget and Policy Framework Procedure Rules.

Implementation of decisions

- 2.3 To take all necessary actions (including the letting of contracts, undertaking statutory processes and incurring expenditure) to implement decisions of Council, the Executive, a Committee or Sub-Committee, or an Officer.

General operational

- 2.4 To have overall responsibility for the operational management of the relevant area of service, including approval of operational procedures and policies, and implementing all decisions, including the allocation of resources within approved estimates, as are necessary to exercise the functions for which the service is responsible.
- 2.5 Any Chief Officer may be appointed by the Chief Executive to deputise in their absence and when so appointed is authorised to exercise all the powers of the Chief Executive (including those of the Head of Paid Service).

Consultation

- 2.6 To undertake and consider the outcome of statutory and non-statutory consultations on service provision.
- 2.7 To respond to Government Consultations and consultations from other bodies, in consultation with the Leader or the relevant Committee Chair.

- 2.8 To undertake all steps required to complete Government Statistical Returns.

Finance

- 2.9 To manage the finance of their departments to ensure value for money and the development of budget policy options with a detailed assessment of financial implications.
- 2.10 To enter into contracts and incur expenditure in relation to their functional area and in accordance with the approved budget, 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 Council's Contracts Procedure Rules.
- 2.11 To determine a Pricing Strategy that articulates the level of fees or charges payable in respect of any goods or services supplied, work undertaken or the loan or use of plant, equipment or machinery.
- 2.12 To submit applications for grant funding that align with the Council **Budget and Policy Framework**, in accordance with the approvals required under the Financial Procedure Rules.

Staffing

- 2.13 To deal with the full range of employment and staff management issues, below Chief Officer level including but not limited to appointments, terms and conditions (other than those negotiated nationally) training, discipline, dismissal, performance, progression, promotion, shifts and working hours, grievance, grading, emoluments, expenses, allowances, sick pay, leave, equal opportunities and health and safety in accordance with approved policies and the Employment Procedure Rules.
- 2.14 To enter into reciprocal arrangements for the authorisation and appointment of officers to facilitate cross-border co-operation in the discharge of delegated functions with any other public sector organisation.

Land and assets

- 2.15 To manage vehicles, plant, equipment, machinery, stock, stores, supplies, materials, furniture, appliances, uniforms and (in consultation with the Director of Resources) land and premises necessary for the provision of services.
- 2.16 To administer the supply of goods and services to other public authorities and bodies under the Local Authorities (Goods and Services) Act 1970 and all other enabling legislation.
- 2.17 To make application for planning permission and any other necessary applications for other consents required for the development of land.

Legal authorisation and enforcement

- 2.18 To act as “duly authorised officers” (for the purposes of all relevant legislation) and to enforce/administer the requirements of all relevant regulatory legislation which shall (for the avoidance of doubt) include (but not be limited to) taking the following action (and all actions reasonably necessary, expedient or ancillary in order to facilitate or enable the same):
- 2.18.1 Applying for warrants, carrying out investigations, inspections or surveys, entering land and premises, taking samples and seizing property
 - 2.18.2 issuing (or declining to issue) licences, certificates or certified copies of documents, approvals, permissions, consents, notices, orders, directions or requisitions for information
 - 2.18.3 Only with the approval of the **Monitoring Officer**, to authorise the institution, defence, settlement of or participation in civil and criminal proceedings and quasi-proceedings (which for the avoidance of doubt shall include but not be limited to all court hearings, tribunal, inquiry and appeal processes), administer cautions and/or take any other action considered necessary to protect the interests of the Council. Only the Monitoring Officer, however, may seek, instruct or authorise the obtaining of any legal advice or representation by external solicitors, counsel or other legal bodies.
- 2.19 Where authorised in the Constitution or applicable policy, to exercise the role of authorising officer and designated person under the Regulation of Investigatory Powers Act 2000. (The **Monitoring Officer** is excluded from this provision as they have the formal ‘reviewer’ role.)

Safeguarding children and vulnerable adults

- 2.20 To ensure that arrangements are in place to discharge the responsibilities of the Council within their functional responsibilities in respect of the need to safeguard and promote the welfare of children and of vulnerable adults.

Emergencies and Continuity

- 2.21 If the Council needs to act urgently in any matter including, without limitation, complying with the Emergency Response Plan and other council response plans or taking any action under new legislation of powers, and the Chief Executive is either unwell, unobtainable or where there is no Chief Executive in post, then a Chief Officer may act in the place of the Chief Executive and may delegate responsibility to another nominated Officer where it is considered appropriate.

3 DELEGATIONS TO CHIEF EXECUTIVE AND CHIEF OFFICERS

Statutory Chief Officers

Chief Executive (Head of Paid Service)

The Chief Executive is the most senior officer in the Council. It is their role to support the Councillors and to provide leadership for the Council.

- 3.1 The Chief Executive is empowered to operate all the services of the Council and, except where powers, duties and functions are reserved, to exercise all powers, duties and functions of the Council, including those delegated to other officers with the exception of those statutory functions delegated exclusively to the Council's Chief Finance Officer or the Monitoring Officer.
- 3.2 Every Council must, by law, appoint one of its officers as the Head of Paid Service. The Chief Executive is also the Council's Head of Paid Service. Their responsibility in this role is to make proposals to the Council about the manner in which the discharge of the Council's functions is co-ordinated and the numbers, grades and organisation of staff required and the proper management of those staff. The Chief Executive has power to exercise any function of the Head of Paid Service contained in any legislation and in any other Part of this Constitution.
- 3.3 The Chief Executive may appoint one or more deputies, each of whom has power to exercise all the powers and duties of the Chief Executive during their absence, incapacity or conflict from acting or during vacancy of the role.
- 3.4 The Chief Executive is given delegated power to undertake the following roles and responsibilities and to take the following decisions subject to the terms of this Constitution:
 - 3.4.1 To be the Council's principal officer representative and to promote its good image and reputation
 - 3.4.2 To lead and direct the strategic management of the Council
 - 3.4.3 To appoint other officers as Proper Officers for the purposes of any specific Council service area or function and to maintain an up to date Proper Officer Register showing who is appointed to act as the Proper Officer for all Council service areas and functions
 - 3.4.4 Unless another officer is appointed as Proper Officer, to act as Proper Officer for the Council for the purposes of all Council service areas and functions

- 3.4.5 To discharge emergency planning and civil protection functions (together with the Director of Public Health and Communities in the case of emergency presenting a risk to public health);
- 3.4.6 To take such steps (including the incurring of expenditure where necessary) as may be required in the event of any national or local emergency requiring immediate action by the Council
- 3.4.7 To undertake the communications, marketing and media functions of the Council with regard to policy and strategic direction.
- 3.4.8 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 Councillors, except the statutory functions of the Monitoring Officer.
- 3.4.9 To 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. This may include waiving the Council's Contracts Procedure Rules to the extent that this complies with domestic laws. In exercising this power, the Chief Executive must consult with the Leader of the Council, the Monitoring Officer and the Chief Finance Officer or in their absence, their nominated deputies, 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;
- 3.4.10 To 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.

Chief Legal Officer (Monitoring Officer)

- 3.5 The Chief Legal Officer is appointed in accordance with Section 5 of the Local Government and Housing Act 1989 and has all the powers and duties of the Monitoring Officer and is responsible for supporting and advising the Council in relation to:
 - 3.5.1 the lawfulness and fairness of the decision making of the Council
 - 3.5.2 the Council's compliance with its legal responsibilities and requirements, and
 - 3.5.3 matters relating to the conduct of Councillors (including Parish Councillors).

- 3.6 The Monitoring Officer will provide advice to ensure that decisions are taken on proper authority, by due process, and in accordance with the Budget and Policy Framework.
- 3.7 The Monitoring Officer shall, where necessary, and in consultation with the Head of Paid Service and the Chief Finance Officer, report any proposal, decision or omission considered to be unlawful or that amounts to maladministration to the Council as appropriate in accordance with Section 5 of the Local Government and Housing Act 1989.
- 3.8 The Monitoring 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 their absence, incapacity or conflict from acting or during vacancy of the role.
- 3.9 The Monitoring Officer has power to exercise any function of the Monitoring Officer contained in any other Part of this Constitution.
- 3.10 The Monitoring Officer shall have the following delegated powers and responsibilities:
 - 3.10.1 To authorise the settlement of actual or potential claims, borehole claims or Local Government and Social Care Ombudsman cases across all functions of the Council.
 - 3.10.2 To prosecute, defend, settle, make application, serve any notice or appear on behalf of the Council in any Court, Tribunal or hearing on any criminal, civil or other matter (including appeals).
 - 3.10.3 To institute legal proceedings for any offences within the Council's area.
 - 3.10.4 To lodge objections to any proposal affecting the Council's interests.
 - 3.10.5 To determine applications for the display of the crest or logo of the Council.
 - 3.10.6 To approve the Council's response to any investigation carried out by the Local Government and Social Care Ombudsman.
 - 3.10.7 To approve the Council's response to any request for information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2003.
 - 3.10.8 To take all action including the completion of agreements, the service of notices, giving of directions, obtaining or issuing orders, authorising the execution of powers of entry, and the institution and defence of legal proceedings necessary or desirable to protect and advance the interests of or discharge the roles, functions and responsibilities of the Authority.

- 3.10.9 To make discretionary payments under Land Compensation Act 1973 on the recommendation of the District Valuer.
- 3.10.10 In accordance with the Council's approved policy, to monitor the integrity of the operation of the Regulation of Investigatory Powers Act 2000 by:
- a) Ensuring compliance with all relevant legislation and with the Codes of Practice.
 - b) Engagement with the Inspectors from the Investigatory Powers Commissioner's Office when they conduct their inspections, and, where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner.
 - c) Monitoring authorisations and conducting a quarterly review of applications, authorisations and refusals, and reviewing renewals and cancellations.
- 3.10.11 To make Orders for the Temporary Closure of Highways and Regulation of Traffic.
- 3.10.12 To attest the affixing of the Council's seal to all documents approved for sealing.
- 3.10.13 To authorise appropriate Officers to administer formal cautions in respect of criminal offences.
- 3.10.14 To determine whether a particular claim for payment under the Councillors Allowances Scheme is appropriate.
- 3.10.15 To authorise appropriately qualified employees or persons acting on behalf of the Council to appear in, and conduct legal proceedings in, any Court or Tribunal on behalf of the Authority.
- 3.10.16 To prove debts owed to the Authority in bankruptcy and liquidation proceedings.
- 3.10.17 To deal with the initial stages of the disciplinary procedure for the statutory officers (Chief Executive and Chief Finance Officer), in conjunction with the appointed Chair of the Staffing Committee;
- 3.10.18 To make such changes to the Council's Constitution as they deem to be necessary and which are in the Council's interests and which do not materially change any principles previously approved by the Council including, but not limited to, changes:
- a) amounting to routine revisions
 - b) to provide appropriate clarity
 - c) to correct typographical and other drafting errors

- d) to reflect new legislation
- e) to correct inconsistencies in drafting
- f) to reflect new officer structures and job titles, properly approved through Council processes.

3.10.19 To grant dispensations to Councillors or Coopted members under Section 33 of the Localism Act 2011, 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 Executive or any committee or sub-committee of the Executive, 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:

- a) if it is considered that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
- b) if it is considered that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- c) if it is considered that granting the dispensation is in the interests of persons living in the authority's area; or
- d) if it is considered that it is otherwise appropriate to grant a dispensation.

3.10.20 The Monitoring 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 Councillors, implementing decisions and undertaking efficient management of the services, contracts and staff for which they are responsible in the following functional areas:

- a) Legal and Democratic Services;
- b) Member Support and Training;
- c) Election Services;
- d) Coroners Services;
- e) Registration Services;

- f) Internal Audit;
- g) Information Governance;
- h) Records Management; and
- i) any other services allocated or re-allocated to the Monitoring Officer by the Chief Executive.

Chief Finance Officer (s.151 Officer)

- 3.11 The Chief Finance Officer is appointed in accordance with section 151 of the Local Government Act 1972 as the financial adviser to the Council, Committees and Officers and the Authority's 'responsible financial officer', and is responsible for the proper administration of the Council's financial affairs as specified in, and undertakes the duties required by, section 151 of the Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, the Local Government and Housing Act 1989, the Local Government Act 2003, and all other relevant legislation:
- 3.12 "Proper Administration" is not defined but shall also include responsibilities for compliance with the statutory requirements for accounting and internal audit.
- 3.13 The Chief Finance Officer may appoint one or more sufficiently qualified deputies, each of whom has power to exercise all the powers and duties of the section 151 Officer during their absence, incapacity or conflict from acting or during vacancy of the role.
- 3.14 The Chief Finance Officer shall have the following delegated powers and responsibilities:
 - 3.14.1 To carry out the functions and responsibilities which are detailed in the Finance Procedure Rules;
 - 3.14.2 To strengthen the strategic and operational financial leadership of the Council through medium term financial planning and budgetary control overseeing the Council's annual budget;
 - 3.14.3 To secure effective treasury management, including taking all action necessary in relation to all debts, payment of accounts, loans (including guarantees and indemnities), grants, advances, investments, financing and banking generally;
 - 3.14.4 To take all action necessary to ensure the safeguarding of assets by maintaining and administering appropriate insurance and approving requests to post-pone legal charges;
 - 3.14.5 To lead the revenue and benefits service;

- 3.14.6 To take all action necessary to facilitate debt recovery and enforcement action including instituting prosecutions, making applications to courts and tribunals and authorising officer to appear on behalf of the Council;
- 3.14.7 To take all necessary action in respect of the Council's role in relation to the administration and operation of the Pension Fund and to represent the needs of Cumberland to Westmorland and Furness as the "Pension Administering Authority";
- 3.14.8 To adopt the Council's annual Council Tax Base
- 3.14.9 To make recommendations to Council on Council Tax requirements, on the Council tax base and to administer and manage generally all matters relating to Council Tax, Non Domestic Rates and General Rates including the awarding of discounts, relief, and exemptions and the levying, collection, recovery, and disbursement of all sums due to the Council in respect of the same in accordance with all governing Regulations;
- 3.14.10 To act as the Council's shareholder representative in respect of Cumbria Holdings.
- 3.14.11 To 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 responsible in the following functional areas:
- a) Procurement;
 - b) Insurance;
 - c) Pensions;
 - d) Accounting and Financial Planning;
 - e) Revenues and Benefits; and
 - f) Financial services (including treasury management and banking);
 - g) performance;
 - h) the financing of the Capital Programme;
 - i) Any other services allocated to the Chief Finance Officer by the Chief Executive

Director of Public Health and Communities

- 3.15 The Director of Public Health and Communities holds the statutory role for the Council as the person appointed as the Director of Public Health (required by section 73A of the National Health Service Act 2006).
- 3.16 The Director of Public Health and Communities 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 and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional areas:
 - 3.16.1 Public health intelligence;
 - 3.16.2 Health improvement and the Wider Determinants of Health;
 - 3.16.3 Public health protection;
 - 3.16.4 Public Health commissioning, contract management and quality assurance;
 - 3.16.5 Regulatory Services including Environmental Health and Protection, Trading Standards, Licensing and Private Sector Housing;
 - 3.16.6 The statutory functions of the Director of Public Health (together with the Chief Executive in the case of planning for and responding to emergencies that present a risk to public health); and
 - 3.16.7 Any other services allocated or reallocated to the Director of Public Health by the Chief Executive.

Director of Adult Social Care and Housing

- 3.17 The Director of Adult Social Care and Housing holds the statutory role for the Council of the Director of Adult Social Services (required by Section 6 of the Local Authority Social Services Act 1970).
- 3.18 The Director of Adult Social Care and Housing 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:
 - 3.19 All adults services including but not limited to:

- 3.19.1 Adult Social Care Services – Community Teams;
- 3.19.2 Adult Social Care – Hospital Teams;
- 3.19.3 Mental Health and Learning Disability Services;
- 3.19.4 Adult Safeguarding;
- 3.19.5 Adult Social Care commissioning, contract management and quality assurance;
- 3.19.6 Adult Social Care Business Support and Finance;
- 3.19.7 The provision of residential and day services to children and adults including those provided by Cumbria Care (“Provider Services”);
- 3.19.8 Integration of health and social care services; and
- 3.19.9 Any other services allocated to the Director by the Chief Executive

Director of Children and Family Wellbeing

- 3.20 The Director of Children and Family Wellbeing holds the statutory role for the Council of the Director of Children's Services (required by Section 18 of the Children Act 2004) and is the designated person for the purposes of Section 22 of the Children Act 1989.
- 3.21 The Director of Children and Family Wellbeing 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 Councillors, implementing decisions, and undertaking efficient management of the services, contracts and staff for which they are responsible in the following functional areas:
 - 3.21.1 Children and young people's services including Looked After Children;
 - 3.21.2 Education and skills;
 - 3.21.3 SEND;
 - 3.21.4 the provision of residential and day services to children; and
 - 3.21.5 any other services allocated to the Director by the Chief Executive.
- 3.22 The Director of Children and Family Wellbeing has specific powers to:

- 3.22.1 in consultation with the relevant Executive Councillor 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; and
- 3.22.2 nominate local authority governors to maintained schools in consultation with the relevant local Councillor or the Chair and Vice Chair of the relevant Community Panel.

Non Statutory Chief Officers

Assistant Chief Executive

- 3.23 The Assistant Chief Executive 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 and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional areas:
 - 3.23.1 Strategic and Corporate Policy;
 - 3.23.2 Performance and data/ intelligence;
 - 3.23.3 Communications; and
 - 3.23.4 PR and Media Relations.

Director of Business Transformation and Change

- 3.24 The Director of Business Transformation and Change 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 and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional areas:
 - 3.24.1 Business Partnering;
 - 3.24.2 Commissioning and Procurement;
 - 3.24.3 Human Relations and Organisational Development;
 - 3.24.4 ICT;
 - 3.24.6 Programme Management Office; and

- 3.24.7 Any other services allocated to the Director by the Chief Executive

Director of Place Sustainable Growth and Transport

3.25 The Director of Place Sustainable Growth and Transport 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 Councillors, implementing decisions, and undertaking efficient management of the services, contracts and staff for which they are responsible in the following functional areas:

- 3.25.1 Inward Investment and Growth;
- 3.25.2 Climate Change, Net Zero and Biodiversity and the Natural Environment;
- 3.25.3 Sustainable Growth;
- 3.25.4 Planning and Building Control;
- 3.25.5 Transport and Highways;
- 3.25.6 Community Infrastructure;
- 3.25.7 Waste and Street Scene; and
- 3.25.8 Any other services allocated or reallocated to the Director of Place, Sustainable Growth and Transport by the Chief Executive

Director of Resources

3.26 The Director of Resources 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 Statutory Chief Officers and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional areas:

- 3.26.1. Financial Services including responsibility for management of the Chief Financial Officer (S151 Officer);
- 3.26.2. Legal and Democratic services, Elections, Member Support, Coroner's Services, Registrars and Internal audit and risk management including responsibility for management of the Chief Legal Officer (Monitoring Officer).
- 3.26.3. Assets and Fleet including management of housing and school assets;

- 3.26.4. All aspects of Customer Service Delivery including community hubs and prevention, front door and service integration;
- 3.26.5. Corporate Complaints and Business Administration;
- 3.26.6. Any other services allocated or reallocated to the Director of Resources by the Chief Executive; and
- 3.26.7. The Director of Resources is authorised to act as the Port of Workington duty holder.

4 STATUTORY OFFICER AND PROPER OFFICER APPOINTMENTS

- 4.1 Many legislative provisions require the appointment of a **Statutory Officer** or **Proper Officer** to undertake formal responsibilities on behalf of the Council.
- 4.2 The **Chief Executive/Head of Paid Service** shall be the Proper Officer of the Council for the purposes of the Local Government Act 1972, the Local Government Act 2000 and for all other statutory purposes unless:
- 4.2.1 such designation is given by the Council to any other officer, or
- 4.2.2 the Chief Executive/Head of Paid Service, exercising the powers given to them by this Constitution, appoints another officer of the Council to be the Proper Officer for a specific service area or function.
- 4.3 The Scheme of Delegation to Officers and table below outlines the designated Statutory Officer and Proper Officer functions for the Council and those officers (or where necessary, their substitute) shall undertake the specific responsibilities entailed.
- 4.4 Statutory provisions and regulations are from time to time amended, replaced or re-enacted. When a statutory provision or regulation is amended, replaced or re-enacted, the appointments in the table below shall be effective in relation to the corresponding new provision.
- 4.5 Substitutes are identified to act where the **Proper Officer** is absent or otherwise unable to act.
- 4.6 In the event of any officer (and their substitute) identified in the Scheme of Delegation to Officers or in the table below being for any reason absent or unable to act and the officer/substitute has not made any other arrangements for the exercise of the relevant duties, the Chief Executive (in consultation with the Monitoring Officer) shall nominate an officer to act in their stead.

Statutory Officers

Statutory Requirement	Allocated to	Substitute
Local Government and Housing Act 1989 Section 4 Head of Paid Service	Chief Executive	Directors
Representation of the People Act 1983 Section 8 Electoral Registration Officer	Chief Executive	Chief Legal Officer Electoral and Democratic Services Manager Senior Specialist – Elections

Statutory Requirement	Allocated to	Substitute
		Electoral Services Officer Any other suitably qualified and experienced officer who the Chief Executive may appoint.
Representation of the People Act 1983 Section 28 Acting Returning Officer (Parliamentary)	Chief Executive	Chief Legal Officer Electoral and Democratic Services Manager Senior Specialist – Elections Electoral Services Officer Any other suitably qualified and experienced officer who the Chief Executive may appoint
Representation of the People Act 1983 Section 35 Returning Officer (Local Elections)	Chief Executive	Chief Legal Officer Electoral and Democratic Services Manager Senior Specialist – Elections Electoral Services Officer Any other suitably qualified and experienced officer who the Chief Executive may appoint
Weights and Measures Act 1985 Section 72 Chief Inspector of Weights and Measures	Trading Standards Manager	Sheralee Heaviside
Local Authority Social Services Act 1970 Section 6 Director of Adult Social Services	Director of Adult Social Care and Housing	Assistant Directors Karen Bell Alison Glanville Paul Latimer
Local Government Act 1972	Chief Finance Officer	Wayne Johnson

Statutory Requirement	Allocated to	Substitute
Section 151 Section 151 Officer		Barry Lennox
Local Government Act 2000 Section 9FB Scrutiny Officer	Assistant Chief Executive	Alex Fitzgerald
Local Government and Housing Act 1989 Section 5 Monitoring Officer	Chief Legal Officer	Kate Turner Elizabeth Hore Mary Grimshaw
Children Act 2004 Section 18 Director of Children's Services	Director of Children and Family Wellbeing	Philippa Holmes Paige Thomason Emma Hamer
Children Act 1989 Section 22 and 23ZZA Virtual School Headteacher	Director of Children and Family Wellbeing	Emma Hamer
National Health Service Act 2006 Section 73A	Director of Public Health and Communities	Clare King Carol Stewart

Proper Officers

Function	Legislative Provision	Proper Officer	Deputy
Reference in legislation to the "Clerk"	Any legislation before October 1972	Chief Executive	Chief Legal Officer
Appointment as Parish Trustee with Chair of as body corporate for a Parish Meeting; Officer responsible for convening newly created Parish Councils	Local Government Act 1972 Section 13(3)	Chief Executive	Chief Legal Officer
Witness and receipt of declaration of acceptance of office	Local Government Act 1972 Section 83	Chief Executive	Chief Legal Officer
Receipt of notice of resignation by councillor	Local Government Act 1972 Section 84	Chief Executive	Chief Legal Officer
Declare any vacancy in office	Local Government Act 1972	Chief Executive	Chief Legal Officer

Function	Legislative Provision	Proper Officer	Deputy
	Section 86		
Convening a meeting of Council to fill casual vacancy in office of Chair	Local Government Act 1972 Section 88(2)	Chief Executive	Chief Legal Officer
Receipt of notice of casual vacancy from two local government electors (Also for Parish and Community Councils)	Local Government Act 1972 Section 89(1)(b) Local Elections (Parishes and Communities) (England and Wales) Rules 2006/3305	Chief Executive	Chief Legal Officer
Exclusion of reports, etc. from inspection	Local Government Act 1972 Section 100B Schedule 12A	Chief Legal Officer	Deputy Monitoring Officer
Supply of documents to the press	Local Government Act 1972 Section 100B(7)(c)	Chief Legal Officer	Deputy Monitoring Officer
Written Summary where minutes would disclose exempt information	Local Government Act 1972 Section 100C	Chief Legal Officer	Deputy Monitoring Officer
Compilation of list of background papers	Local Government Act 1972 Section 100D	Chief Legal Officer	Deputy Monitoring Officer
Exclusion from production to Councillors of documents disclosing exempt information	Local Government Act 1972 Section 100F	Chief Legal Officer	Deputy Monitoring Officer
Receipt of money due from officers	Local Government Act 1972 Section 115(2)	Chief Finance Officer	Deputy s151 Officer
Declarations and certificates with regard to securities	Local Government Act 1972 Section 146(1)(a)	Chief Finance Officer	Deputy s151 Officer
The Officer having responsibility for the proper administration of the financial affairs of the Council.	Local Government Act 1972 Section 151 Also Local Government Finance Act 1988 sections 112-116 and any reference in legislation before October 1972 to the "Treasurer" of a local authority	Chief Finance Officer	Deputy s151 Officer

Function	Legislative Provision	Proper Officer	Deputy
Functions with respect to ordnance survey	Local Government Act 1972 Section 191	Director of Place Sustainable Growth and Transport	
Charity functions	Local Government Act 1972 Section 210	Chief Legal Officer	Deputy Monitoring Officer
Authorise Officers to appear in legal proceedings	Local Government Act 1972 Section 223 (Also Section 60 County Courts Act 1984)	Chief Legal Officer	Deputy Monitoring Officer
Deposit of documents pursuant to the Standing Orders of either Houses of Parliament or to any enactments/instruments and any action as may be directed	Local Government Act 1972 Section 225(1)	Chief Legal Officer	Deputy Monitoring Officer
Certification of photographic copies of documents	Local Government Act 1972 Section 229(5)	Chief Legal Officer	Deputy Monitoring Officer
Authentication of documents	Local Government Act 1972 Section 234(1)	Chief Legal Officer	Deputy Monitoring Officer
Sending confirmed byelaws to the proper officer of every Parish and Community Council to which they apply	Local Government Act 1972 Section 236	Chief Legal Officer	Deputy Monitoring Officer
Certification of byelaws	Local Government Act 1972 Section 238	Chief Legal Officer	Deputy Monitoring Officer
Keeping of roll of Freemen	Local Government Act 1972 Section 248	Chief Legal Officer	Deputy Monitoring Officer
Signature of summons to council meetings	Local Government Act 1972 Section 99 & Schedule 12 Para.4(1A)(b)	Chief Legal Officer	Deputy Monitoring Officer
Officer to whom Councillors shall give notice of address desiring Council	Local Government Act 1972 Schedule 12 Para.4(3)	Chief Legal Officer	Deputy Monitoring Officer

Function	Legislative Provision	Proper Officer	Deputy
Receipt on deposit of lists of buildings of special architectural or historical interest and Building Preservation Notices	Planning (Consequential Provisions) Act 1990 Schedule 3, para 3 Town and Country Planning Act 1971 Section s 54 & 58	Director of Place Sustainable Growth and Transport	
Exercise of registration functions under various legislative provisions relating to births, deaths and marriages including appointment of superintendent registrars and local schemes and other ceremonies including citizenship ceremonies	Registration Service Act 1953 including Section s 9, 13 and 20 Marriage Act 1949, Civil Partnership Act 2004	Chief Legal Officer	Senior Registration Officer
Officer having responsibility for the storage and charge of cemetery records	Local Authorities' Cemeteries Order 1977 Article 12	Director of Place, Sustainable Growth and Transport	
Officer having responsibility for the signature of grants under Paragraph 1 of Part II of Schedule 2 of that Order and the granting of permission for the various matters referred to in Paragraph 1 of Part I of that Schedule	Local Authorities' Cemeteries Order 1977 Paragraph 1 of Parts I & II of Schedule 2	Director of Place, Sustainable Growth and Transport	
The Registration Officer for any constituency of part of a constituency coterminous or situated in the Borough.	Representation of the People Act 1983 Section 8 and 52	Chief Executive	Chief Legal Officer Electoral and Democratic Services Manager Senior Specialist – Elections

Function	Legislative Provision	Proper Officer	Deputy
			Electoral Services Officer Any other suitably qualified and experienced officer who the Chief Executive may appoint
Acting Returning Officer for Parliamentary elections	Representation of the People Act 1983 Section 28	Chief Executive	Chief Legal Officer Electoral and Democratic Services Manager Senior Specialist – Elections Electoral Services Officer Any other suitably qualified and experienced officer who the Chief Executive may appoint
The Returning Officer for elections of Councillors of the District and for elections of Councillors of Parishes within the District and to receive and inspect returns and declarations of Election expenses	Representation of the People Act 1983 Section 35(1) Representation of the People Act 1983 Section 82 and 89	Chief Executive	Chief Legal Officer Electoral and Democratic Services Manager Senior Specialist – Elections Electoral Services Officer

Function	Legislative Provision	Proper Officer	Deputy
			Any other suitably qualified and experienced officer who the Chief Executive may appoint
Receipt of notice of appointment of election agent	Representation of the People Act 1983 Section 67	Chief Executive	Chief Legal Officer Electoral and Democratic Services Manager Senior Specialist – Elections Electoral Services Officer Any other suitably qualified and experienced officer who the Chief Executive may appoint
Provision of accommodation for election court	Representation of the People Act 1983 Section 131	Chief Executive	Chief Legal Officer
Receipt from Returning Officer of: the names of persons elected to the council; and election documents. Retention of election documents and making them available for public inspection	Local Elections (Principal Areas) (England and Wales) Rules 2006/3304	Chief Legal Officer	Electoral and Democratic Services Manager Senior Specialist – Elections Electoral Services Officer
Publication of reports of Local Commissioners	Local Government Act 1974 Part 3 Section 30	Chief Legal Officer	Deputy Monitoring Officer

Function	Legislative Provision	Proper Officer	Deputy
<p>Various purposes with regard to drainage, water supply, sanitary accommodation.</p> <p>Purposes relating to building control other than those comprised in (a) above</p> <p>Authorisation of action in relation to dangerous structures under Section 78</p>	<p>Building Act 1984</p>	<p>Director of Public Health and Communities</p> <p>Director of Place Sustainable Growth and Transport</p> <p>Director of Place Sustainable Growth and Transport</p>	
<p>To determine applications for exemption from the list of politically restricted posts</p> <p>Maintain a list of politically restricted posts</p>	<p>Local Government and Housing Act 1989 Section 3A</p> <p>Section 2</p>	<p>Chief Executive</p>	<p>Chief Legal Officer</p>
<p>Receipt of Notice re changes to Political Groups</p> <p>Receipt of Notice of Cessation of Membership of Political Groups</p> <p>To accept wishes of Political Groups in respect of proportionality</p> <p>Receipt of notice in writing that a Councillor wishes to forego any part of entitlement to an allowance</p>	<p>Local Government and Housing Act 1989 Sections 15,16, 17 & 18</p> <p>Local Government (Political Groups) Regulations 1990 Paras 9, 10, 13 & 14</p>	<p>Chief Executive</p> <p>Chief Executive</p> <p>Chief Legal Officer</p> <p>Chief Legal Officer</p>	<p>Chief Legal Officer</p> <p>Chief Legal Officer</p> <p>Deputy Monitoring Officer</p> <p>Deputy Monitoring Officer</p>

Function	Legislative Provision	Proper Officer	Deputy
To notify Political Groups of allocations		Chief Legal Officer	Deputy Monitoring Officer
Discharging the functions for dealing with stray dogs	Environmental Protection Act 1990 Sections 149 - 151	Director of Place, Sustainable Growth and Transport	
Service of notices requiring details of any interests in land.	Local Government (Miscellaneous Provisions) Act 1976 Section s 16	Chief Legal Officer	Deputy Monitoring Officer
Certification of copies of resolutions, minutes and other documents	Local Government (Miscellaneous Provisions) Act 1976 Section 41	Chief Legal Officer	Deputy Monitoring Officer
Duty of local authority to supply forms to doctors for purposes of Section 48 - Removal of dead body to mortuary for burial. Section 58 - Authentication of documents Section 60 - Service of notices and other documents	Public Health Act 1936 Sections 11, 48, 58 & 60 Public Health (Control of Disease) Act 1984	Director of Public Health and Communities	
Receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons.	Regulations 2, 3 and 6 of The Health Protection (Notification) Regulations 2010	Director of Public Health and Communities	
Preparation of certificate of Justice of Peace for removal of body to mortuary and for burial within a prescribed time or immediately.	Section 48 of the Public Health (Control of Disease) Act 1984 as amended by Health and Social Care Act 2008	Director of Public Health and Communities	
Signature and authentication of notices, orders or other documents	Section 59 Public Health (Control of Disease) Act 1984	Director of Public Health and Communities	
Power to enter premises	Sections 61 and 62 of the Public Health	Director of Public Health	

Function	Legislative Provision	Proper Officer	Deputy
	(Control of Disease) Act 1984	and Communities	
The local registrar within the meaning of the Land Registration Act 2002 and Local Land Charges Act 1975 who shall register any matters specified by these Acts affecting land situate within the district.	Land Registration Act 2002 and Local Land Charges Act 1975	Director of Place Sustainable Growth and Transport	
Entertainments, licensing control of sex shops and public health	Local Government (Miscellaneous Provisions) Act 1982	Director of Public Health and Communities	
Licensing and gambling functions	Licensing Act 2003 Gambling Act 2005	Director of Public Health and Communities	
Non-disclosure where potential to prejudice the effective conduct of public affairs	Freedom of Information Act 2000 Section 36	Chief Legal Officer	Deputy Monitoring Officer
Scrutiny Officer	Local Government Act 2000 Section 9FB	Assistant Chief Executive	
Proper Officer Functions for petitions and referenda	Local Authorities (Referendums) (Petitions) (England) Regulations 2011/2914	Chief Legal Officer	Deputy Monitoring Officer
29 – Establish and maintain a register of Councillors' and co-opted members' interests 30 – 31 – Receipt of Councillors and co-opted members' declarations of interests and changes to those interests within 28 days 32 – Sensitive Interests	Localism Act 2011 Sections 29 - 33	Chief Legal Officer	Democratic Services Manager

Function	Legislative Provision	Proper Officer	Deputy
33 – Dispensations from restrictions under Section 31(4)			
Proper Officer functions in relation to referendums	Local Authorities (Conduct of Referendums) (England) Regulations 2012	Chief Executive	Chief Legal Officer
Proper Officer functions anti-social behaviour and community protection	Anti-Social Behaviour Act 2003 and Anti-Social Behaviour, Crime and Policing Act 2014	Director of Place, Sustainable Growth and Transport	
Proper Officer for notification to deal with objections by the Executive to appointments or dismissals of Chief and Deputy Chief Officers	Local Authorities (Standing Orders) (England) Regulations 2001/3384	Chief Legal Officer	Deputy Monitoring Officer
Arrangements for network management and appointment of Traffic Manager	Section 17 of the Traffic Management Act 2004	Director of Place Sustainable Growth and Transport	
Chief Inspector of Weights and Measures	Weights and Measures Act 1985 Section 72	Trading Standards Manager	
Virtual School Headteacher	Children Act 1989 Section 22 and 23ZZA	Director of Children and Family Wellbeing	
Data Protection Officer	Data Protection Act 2018 UK GDPR	Information Governance and Data Compliance Officer	
SIRO		Director of Resources	
Nominated officer to receive disclosures on suspected terrorist property	Terrorism Act 2000 Part 3	Chief Executive	

Function	Legislative Provision	Proper Officer	Deputy
Making accounts available to inspection by Councillors of the Council	Local Government Act 1972 Section 228(3)	Chief Finance Officer	Deputy s151 Officer
Responsibility for Chief Finance Officer Reports	Proceeds of Crime Act 2002 Part 7	Chief Finance Officer	Deputy s151 Officer
Appointment of Rent Officers under a scheme Certification of provision of suitable alternative accommodation	Rent Act 1977 Section 63 Schedule 15, Part IV, para 7	Director of Public Health and Communities	
Receipt and inspection of complaints of category 1 and 2 hazards on residential premises	Housing Act 2004 Section 4	Director of Public Health and Communities	
“Authorised Officer” to act in matters arising under the Food Safety Act	Food Safety Act 1990 Section 5	Director of Public Health and Communities	
Appointment of agricultural inspectors and an agricultural analyst	Agriculture Act 1970 Section 67	Director of Place, Sustainable Growth and Transport	
Receipt of certificates approving dedication of highways to be maintainable at public expense and making certificates available for inspection. Power to adopt the highway by agreement	Highways Act 1980 Section 37(5) Section 38	Director of Place, Sustainable Growth and Transport	
Duties in relation to street works in private streets	Highways Act 1980 Section 205(3) and (5)	Director of Place, Sustainable Growth and Transport	
Certification of document giving details of any amendments to estimate of costs and provisional apportionment of costs	Highways Act 1980 Section 210(2)	Director of Place, Sustainable Growth and Transport	

Function	Legislative Provision	Proper Officer	Deputy
of street works in private streets			
Making a final apportionment of costs of street works under the private street works code	Highways Act 1980 Section 211(1), 212(4), 216(2) and (3)	Director of Place, Sustainable Growth and Transport	
Agreements for the execution of works	Highways Act 1980 Section 278	Director of Place, Sustainable Growth and Transport	
Issuing of notice to require owners to remove materials from streets in which works are due to take place	Highways Act 1980 Section 295	Director of Place, Sustainable Growth and Transport	
Signature and authentication of notices, consents, approvals, orders, demands, licences, certificates and other documents.	Highways Act 1980 Section 321	Director of Place, Sustainable Growth and Transport	
Receive notification of, and having free access to, repairs of drains	Building Act 1984 Section 61	Director of Place, Sustainable Growth and Transport	
Access to the countryside	Countryside and Rights of Way Act 2000 Section 1	Director of Place, Sustainable Growth and Transport	
Nomination of Public Analyst	Food Safety Act 1990 Section 27	Director of Public Health and Communities	