

## **COUNCIL**

TUESDAY, 11TH APRIL 2017, 6.30 PM

COUNCIL CHAMBER, TOWN HALL, CHORLEY

### **AGENDA**

#### **APOLOGIES**

##### **1 DECLARATIONS OF ANY INTERESTS**

Members are reminded of their responsibility to declare any pecuniary interest in respect of matters contained in this agenda.

If you have a pecuniary interest you must withdraw from the meeting. Normally you should leave the room before the business starts to be discussed. You do, however, have the same right to speak as a member of the public and may remain in the room to enable you to exercise that right and then leave immediately. In either case you must not seek to improperly influence a decision on the matter.

##### **2 MINUTES OF MEETING TUESDAY, 28 FEBRUARY 2017 OF COUNCIL**

(Pages 3 - 12)

##### **3 MAYORAL ANNOUNCEMENTS**

##### **4 PUBLIC QUESTIONS**

Members of the public who have requested the opportunity to ask question(s) on any item(s) on the agenda will have three minutes to put their question(s) to the relevant Councillor. Members of the public will be allowed to ask one short supplementary question.

##### **5 EXECUTIVE CABINET**

(Pages 13 - 16)

To consider the attached general report of meetings held on 16 February and 16 March 2017.

##### **6 OVERVIEW AND SCRUTINY COMMITTEE AND TASK AND FINISH GROUPS**

(Pages 17 - 22)

To consider the attached general report of meetings of the Committee held on 26 January and 30 March, and of the Performance Panel on 9 March, plus a task group update.

7	<b>GOVERNANCE COMMITTEE</b>	(Pages 23 - 28)
	To consider the attached general report of meetings held on 25 January and 22 March 2017.	
8	<b>MEMBERS CODE OF CONDUCT: PROCEDURAL AMENDMENTS</b>	(Pages 29 - 30)
	To consider the attached report of the Director of Policy and Governance, which was approved at Governance Committee on 22 March 2017, and requires Council approval as a change to the Constitution.	
9	<b>TOWN CENTRE UPDATE</b>	
	To consider a report of the Director of Business, Development and Growth (to follow).	
10	<b>UPDATE ON THE COMBINED AUTHORITY FOR LANCASHIRE</b>	
	The Executive Leader of the Council will give a verbal update.	
11	<b>CONTRACT PROCEDURE RULES PROPOSED AMENDMENTS</b>	(Pages 31 - 34)
	To consider the attached report of the Director of Policy and Governance.	
12	<b>LICENSING POLICY UPDATES</b>	(Pages 35 - 70)
	To receive for information, the following Licensing Policy updates agreed by Licensing and Public Safety Committee on 1 February 2017:	
	<ul style="list-style-type: none"> <li>• General Licensing Safeguarding and Suitability Policy</li> <li>• Street Trading Policy</li> </ul>	
13	<b>QUESTIONS ASKED UNDER COUNCIL PROCEDURE RULE 8 (IF ANY)</b>	
14	<b>TO CONSIDER THE NOTICES OF MOTION (IF ANY) GIVEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 10</b>	
15	<b>ANY URGENT BUSINESS PREVIOUSLY AGREED WITH THE MAYOR</b>	

GARY HALL  
CHIEF EXECUTIVE

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To view the procedure for public questions/ speaking click here

<https://democracy.chorley.gov.uk/documents/s67429/Appendix%203%20Standing%20Orders%20Aug%2016.pdf> and scroll to page 46



## **MINUTES OF COUNCIL**

**MEETING DATE** **Tuesday, 28 February 2017**

**MEMBERS PRESENT:** Councillor Doreen Dickinson (Mayor), Councillor Mark Perks (Deputy Mayor) and Councillors Aaron Beaver, Eric Bell, Alistair Bradley, Terry Brown, Paul Clark, Jean Cronshaw, Alan Cullens, John Dalton, Graham Dunn, Christopher France, Gordon France, Margaret France, Jane Fitzsimons, Anthony Gee, Danny Gee, Tom Gray, Keith Iddon, Mark Jarnell, Hasina Khan, Zara Khan, Paul Leadbetter, Margaret Lees, Roy Lees, Sheila Long, Adrian Lowe, Marion Lowe, Matthew Lynch, June Molyneaux, Greg Morgan, Alistair Morwood, Mick Muncaster, Steve Murfitt, Beverley Murray, Debra Platt, Kim Snape, Richard Toon, John Walker, Paul Walmsley, Alan Whittaker and Peter Wilson

**OFFICERS:** Gary Hall (Chief Executive), Jamie Carson (Director (Early Intervention and Support)), Chris Sinnott (Director (Policy and Governance)), Asim Khan (Director (Customer and Digital)), Mark Lester (Director (Business, Development and Growth)), Chris Moister (Head of Legal, Democratic & HR Services), Carol Russell (Democratic Services Manager)

**APOLOGIES:** Councillors Martin Boardman, Charlie Bromilow, Henry Caunce, Joyce Snape and Ralph Snape

### **17.C.406 Declarations of Any Interests**

There were no declarations of interest received.

### **17.C.407 Minutes of meeting Tuesday, 24 January 2017 of Council**

**RESOLVED – that the minutes of the last meeting of the Council held on 24 January, 2017 be approved as a correct record for signature by the Mayor.**

### **17.C.408 Mayoral Announcements**

The Mayor updated Members on her fundraising activities and referred to her last two charity events, a Houghton Weavers Concert on 25 March and an Easter Tea Dance on 11 April 2017.

### **17.C.409 Public Questions**

There were no public questions for consideration.

### **17.C.410 General Fund Revenue and Capital Budget and Council Tax 2017/18**

Councillor Peter Wilson, Executive Member for Resources, presented the Executive's General Fund Revenue and Capital Budget and Council Tax proposals for 2017/18.

Councillor Wilson referred to the achievements of the Council in recent years and its commitment to a number of major capital projects including the Market Walk Extension and the Primrose Gardens Retirement Scheme as well as ongoing commitments to fund smaller schemes to support local businesses, older people, etc. Despite year on year funding cuts, the Council had continued to deliver new projects and business as usual. However over the next 3 years there would be a £4.3m funding gap because of significant reductions in both Government grant and the new homes bonus and also a loss of £900,000 from Lancashire County Council for waste cost share funding.

The Council's Medium Term Financial Strategy for 2017/2020 had therefore to prepare for that shortfall to ensure the future sustainability of the Council. Sound financial management and planning was essential and whilst investment in income generation schemes would continue, there was a need to ask residents for an increase in their contributions to Council tax in addition to the changes to waste collection services agreed at the last Council meeting on 24 January 2017.

Councillor Bradley referred to the proposed 2% increase in Council tax and advised that the Government had changed approach and there was now an expectation that local authorities would increase Council tax to help deal with budget shortfalls. It would be the first time in 7 years that the Council had increased Council tax and whilst this and changes in waste collection were regrettable, they were essential to continue service delivery and ensure the long term future of the Council. Officers were thanked for their support in compiling the budget proposals and supporting documentation.

In summary, the report set out proposals that would:

- Mitigate the reduction in Central Government grant and the introduction of a reverse tariff, by increasing Council Tax by 2% in 2017/18 and including a 2% increase in Council Tax in 2018/19 and 2019/20 as part of the medium term budget strategy.
- Protect the impact on front line services that the reduction in LCC funding will have by introducing a subscription based garden waste collection service and charging for replacement bins.
- Deliver budget efficiency savings and increased income of £0.416m in 2017/18 onwards.
- Continue to deliver investment in strategic priorities including £0.652m in 2017/18 and £0.468m in 2018/19 onwards.
- Seek to bridge the forecasted budget gap, in particular through shared services and investing in projects that generate net income streams for the Council.
- Were consistent with the Medium Term Financial Strategy.
- Minimise the revenue impact of the Council's borrowing commitment to fund the capital programme.
- Enhance the financial resilience of the Council's budget by increasing the level of working balances from £3.0m to £4.0m by the end of 2018/19.

The following appendices were attached to the main report on the General Fund Revenue and Capital Budget and Council Tax for 2017/18, providing supporting information to the budget proposals:

Appendix A1	Formal Council Tax Resolution 2017/18
Appendix A2	Pay Policy 2017/18
Appendix B	Cumulative Budget Deficit & Budget Strategy 2017-18 to 2019-20
Appendix C1	Capital Programme 2016/17 to 2019/20
Appendix C2	Capital Programme Financing 2016/17 to 2019/20
Appendix C3	Developers' Contributions
Appendix D	Treasury Management Strategy 2017/18 to 2019/20
Appendix D1	Advice of Treasury Management Consultants
Appendix E	Statutory Financial Officer Report
Appendix F	Medium Term Financial Strategy 2017/18 to 2019/20
Appendix G	Variance Analysis – Movements from 2016/17 Original Estimates
Appendix H	Special Expenses /Parish Precepts 2017/18
Appendix I	Budget Consultation 2017/18
Appendix J	Assessing the Impact of 2017/18 Budget Proposals
Appendix K	Assessing the Impact of the Changes to Household Waste Collection

In debating the proposals, Councillor Greg Morgan, Deputy Leader of the Conservative Group, referred to the high spend on major projects and the need for greater focus on efficiency savings and increasing reserves, to avoid a Council tax increase. In response, the Leader and Deputy Leader referred to the proposals for more shared services, the increase in balances up to £4m and the Government's reverse premium tariff which penalised Council's if they didn't impose Council tax rises of up to 2%.

Other opposition Members raised comments about whether LCC funding cuts would impact on services provided by Cotswold House; the impact if the application for mandatory charitable relief on business rates from Lancashire Teaching Hospitals NHS Foundation Trust was successful in its legal challenge; how the events programme could be more financially sustainable; and challenges to the Council's support for those in rural areas rather than focussing on Chorley town centre.

Councillor Greg Morgan, Deputy Leader of the Conservative Group indicated at this point in the meeting that he would not be formally proposing the Conservative Group's Alternative Budget which was included as Agenda item 6. His Group would support the budget proposals proposed in Agenda Item 5, if the Council would accept two formal amendments which he proposed and Councillor Paul Leadbetter seconded, as follows:

#### **AMENDMENT**

**That the following two proposals be added to the budget proposals contained within Agenda Item 5:**

- 1. That the collection of cans and glasses be changed from every 2 weeks to every 4 weeks; and**
- 2. That productivity savings be increased across all Council services by improving staff productivity as follows (extract from page 181 of the agenda, fourth row of the table):**

<p><b>Increase productivity across all Council services</b></p>	<p><b>This project will seek to improve staff productivity across all services areas, to both enable the Council to deal with the inevitable increases in demand for services which will take place over the next few years and also to generate savings options of up to £1m.</b></p> <p><b>Some services are effectively using management data which includes work volumes and processing times to improve staff productivity, and it is intended that this approach would be rolled out across all Council services as far as possible. In some areas it appears that if all staff were working at average productivity levels or above that the same demand could be met with 30% less staff, or that the existing staff could take on more or higher volumes of work. To apply this across the board, could achieve over double the £1m target but would impact on the ability to deliver services.</b></p>	<p><b>£1m in savings by 19/20</b></p>
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A number of Councillors expressed concern about the withdrawal of the opposition's Alternative Budget at this late stage. In response to the amendment proposed, Councillor Alistair Bradley, referred to the significant efficiency savings that had been made in recent years and plans for more shared services. He felt that services could not absorb further savings of the level indicated.

In line with the legal requirement for all budget decisions to be recorded, this proposal was put to the vote and recorded as follows:

**FOR:** Councillors E Bell, A Cullens, J Dalton, K Iddon, P Leadbetter, S Long, G Morgan, M Muncaster, D Platt, J Walker.

**AGAINST:** Councillors A Beaver, A Bradley, T Brown, P Clark, J Cronshaw, G Dunn, J Fitzsimons, C France, G France, M France, A Gee, D Gee, T Gray, M Jarnell, H Khan, Z Khan, M Lees, R Lees, A Lowe, M Lowe, M Lynch, J Molyneaux, A Morwood, S Murfitt, B Murray, K Snape, R Toon, P Walmsley, A Whittaker, P Wilson.

**ABSTAIN:** Councillor M Perks.

**The vote was LOST.**

#### **SUBSTANTIVE MOTION**

The substantive motion as indicated in Agenda Item 5 and proposed by Councillor P Wilson, Executive Member for Resources and seconded by Councillor Alistair Bradley, Executive Leader was then put to the vote and recorded as follows:

**FOR:** Councillors A Beaver, A Bradley, T Brown, P Clark, J Cronshaw, G Dunn, J Fitzsimons, C France, G France, M France, A Gee, D Gee, T Gray, M Jarnell, H Khan, Z Khan, M Lees, R Lees, A Lowe, M Lowe, M Lynch, J Molyneaux, A Morwood, S Murfitt, B Murray, K Snape, R Toon, P Walmsley, A Whittaker, P Wilson.

**AGAINST:** Councillors E Bell, A Cullens, J Dalton, K Iddon, P Leadbetter, S Long, G Morgan, M Muncaster, M Perks, D Platt, J Walker.

The vote was **CARRIED** and it was therefore **RESOLVED –**

**That the budget and proposals as set out in the report in item 5 and supporting appendices, be approved to include:**

- 1. Council Tax set out in the resolutions (at Appendix A1) and the Council's Pay Policy (at Appendix A2) is published on the Council's website from April 2017.**

2. The Council's cumulative budget deficit & budget strategy 2017-18 to 2019-20 (Appendix B) be noted.
3. The capital programme for 2017/18 be approved and the indicative programme for 2018/19 to 2019/20 (Appendices C1, C2 & C3) be noted.
4. The Treasury Management Strategy (Appendix D) be approved, including advice from Treasury Management Consultants (Appendix D1).
5. The advice of the Statutory Finance Officer in relation to the robustness of the budget and the risks contained within it as set out in the Statutory Report (Appendix E) be noted.
6. The Council's Medium Term Financial Strategy (Appendix F) be approved.
7. The significant budget movements from the 2016/17 Budget (at Appendix G) be noted.
8. The Special Expenses and Parish Precepts (at Appendix H) be noted.
9. The Budget Consultation 2017/18 Report (at Appendix I) be noted, including the amendments to the household waste collection service following feedback from the budget consultation and wider feedback. These include:
  - reducing the impact that the changes have on low income households by offering, on request, free home compost bins for those entitled to passported benefits; and
  - offering the choice, on request, of a smaller 140 litre grey garden waste bin where in special circumstances the standard 240 litre bin would be unsuitable.
10. The Assessing the Impact of Budget Proposals 2017/18 Report (at Appendix J) be noted.
11. The integrated impact assessment relating to the changes to the household waste collection (at Appendix K) be noted , including the amendment to the household waste proposals included in this report namely:
  - reducing the impact that the changes have on low income households by offering, on request, free reconditioned replacement waste bins (if available) for those entitled to passported benefits.

**The Council Tax set out in Appendix A1 be approved as follows:**

1. It be noted that on 4 January 2017 the Chief Executive as Statutory Finance Officer calculated the Council Tax Base 2017/18
  - (a) for the whole Council area as 35,933.64 [Item T in the formula in Section 31B of the Local Government Finance Act 1992, as amended (the "Act")]; and
  - (b) for dwellings in those parts of its area to which a Parish precept relates (as in the attached Table 2).
2. Calculate that the Council Tax requirement for the Council's own purposes for 2017/18 (excluding Parish precepts) is £6,502,550.
3. That the following amounts be calculated for the year 2017/18 in accordance with Sections 31 to 36 of the Act:

(a) £58,541,700 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(2) of the Act taking into account all precepts issued to it by Parish Councils.

(b) £51,396,160 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(3) of the Act.

(c) £7,145,540 being the amount by which the aggregate at 3(a) above exceeds the aggregate at 3(b) above, calculated by the Council in accordance with Section 31A(4) of the Act as its Council Tax requirement for the year. (Item R in the formula in Section 31B of the Act).

(d) £198.85 being the amount at 3(c) above (Item R), all divided by Item T (1(a) above), calculated by the Council, in accordance with Section 31B of the Act, as the basic amount of its Council Tax for the year (including Parish precepts).

(e) £1,340,103 being the aggregate amount of all special items (Special Expenses and Parish precepts) referred to in Section 34(1) of the Act (as in the attached Table 1).

(f) £161.56 being the amount at 3(d) above less the result given by dividing the amount at 3(e) above by Item T (1(a) above), calculated by the Council, in accordance with Section 34(2) of the Act, as the basic amount of its Council Tax for the year for dwellings in those parts of its area to which no Parish precept relates.

4. To note that the County Council, the Police Authority and the Fire Authority have issued precepts to the Council in accordance with Section 40 of the Local Government Finance Act 1992 for each category of dwellings in the Council's area as indicated in the table below.

5. That the Council, in accordance with Sections 30 and 36 of the Local Government Finance Act 1992, hereby sets the aggregate amounts shown in the tables below as the amounts of Council Tax for 2017/18 for each part of its area and for each of the categories of dwellings.

<b>VALUATION BANDS</b>
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**CHORLEY BOROUGH COUNCIL**

A	B	C	D	E	F	G	H
107.71	125.66	143.61	<b>161.56</b>	197.46	233.36	269.27	323.12

**LANCASHIRE COUNTY COUNCIL**

A	B	C	D	E	F	G	H
814.49	950.24	1,085.99	<b>1,221.74</b>	1,493.24	1,764.74	2,036.23	2,443.48

**POLICE & CRIME COMMISSIONER FOR LANCASHIRE**

A	B	C	D	E	F	G	H
110.30	128.68	147.07	<b>165.45</b>	202.22	238.98	275.75	330.90

**LANCASHIRE COMBINED FIRE AUTHORITY**

A	B	C	D	E	F	G	H
43.67	50.94	58.22	<b>65.50</b>	80.06	94.61	109.17	131.00

**AGGREGATE OF COUNCIL TAX REQUIREMENTS**

A	B	C	D	E	F	G	H
1,076.17	1,255.52	1,434.89	<b>1,614.25</b>	1,972.98	2,331.69	2,690.42	3,228.50



6. That the Statutory Finance Officer and his officers be authorised to take any action necessary to ensure collection and recovery of the Council Tax and Non-Domestic Rates.

7. As the Council's basic amount of Council Tax for 2017/18 has increased by 2% and is in line with the permitted increase for 2017/18, it is considered not excessive in accordance with principles approved under Section 52ZB Local Government Finance Act 1992.

## EXPLANATION OF COUNCIL TAX SETTING RESOLUTION

### RESOLUTION 1

(a) Before we can calculate the Council Tax to be charged, we first have to calculate the Council Tax base. The Council Tax base is the amount which a Band D Council Tax of £1.00 would raise. For 2017/18 we estimate that a £1.00 Council Tax at Band D would raise £35,933.64 in the Chorley area.

(b) This shows the "base" figure for each Parish in the area. For example, a £1.00 Band D Council Tax in Adlington would raise £1,984.42.

### RESOLUTION 2

This shows the Council's net spending for 2017/18 excluding the cost of Parish precepts.

### RESOLUTION 3

(a) This is the grand total of money which the Council estimates it will spend on all services in 2017/18. It also includes £681,283 which Parish Councils need to run their services.

(b) This is the grand total of money which the Council estimates it will receive from various sources in the year. This includes Central Government and business rates, car park charges, investment income, government grants in respect of benefits, etc.

(c) This is the difference between 2(a) and 2(b) and is in effect the Council's and Parishes net spending on services.

(d) The difference between 2(a) and 2(b) is £7,145,540 and this is the amount we need to charge Council Taxpayers. This is divided by the base (see 1(a) above) and the resulting figure of £198.85 is the average Band D Council Tax for all Borough and Parish services.

(e) The total of all the amounts needed from Council Taxpayers by the Parish Councils in the area and for Chorley Borough Special Expenses.

(f) This is the Band D Council Tax for Chorley Borough Council's own services, ie. excluding Parish Council spending and Special Expenses

### RESOLUTION 4

Lancashire County Council, Lancashire Fire Authority and the Police & Crime Commissioner for Lancashire are separate bodies who have worked out their own estimates of spending and income for 2017/18 and have set taxes in a similar way to Chorley Borough Council. This resolution notes their final decision.

### RESOLUTION 5

This pulls together the Council Taxes for Chorley Borough Council, Lancashire County Council, the Police & Crime Commissioner for Lancashire and Lancashire Fire Authority. For example, the aggregate amount for Band D is £1,614.25 made up as follows:

	£
Chorley Borough Council	161.56
Lancashire County Council	1,221.74
Lancashire Police Authority	165.45
Lancashire Fire Authority	65.50

The rate for each property Band is calculated by reference to the Band D charge. The following ratios apply:

Band A	$\frac{6}{9}$ ths of Band D
Band B	$\frac{7}{9}$ ths of Band D
Band C	$\frac{8}{9}$ ths of Band D
Band D	$\frac{9}{9}$ ths of Band D
Band E	$\frac{11}{9}$ ths of Band D
Band F	$\frac{13}{9}$ ths of Band D
Band G	$\frac{15}{9}$ ths of Band D
Band H	$\frac{18}{9}$ ths of Band D

The aggregate charge for Band A, for example, the charge is  $\text{£}1,614.25 \times 6 \div 9 = \text{£}1,076.17$ ; for Band B it is  $\text{£}1,614.25 \times 7 \div 9 = \text{£}1,255.52$ .

#### RESOLUTION 6

Formally authorise the necessary staff to take legal action to collect arrears as and when this is necessary. **For the vast majority of taxpayers, this is not needed**

#### 17.C.411 Alternative Budget 2017/18

This item was withdrawn during debate contained in the above agenda item.

#### 17.C.412 Changes to Arrangements for Appointment of External Auditor

Members of the Council considered a report of the Chief Executive seeking approval to arrangements to appoint a new external auditor beyond 2017/18 when the current contract with Grant Thornton comes to an end. There were a number of options available to the Council, including:

- Setting up an independent Auditor Appointment Panel.
- Joining with other councils to set up a joint independent Auditor Appointment Panel.
- Using an existing independent panel of the authority (if a suitable panel already exists).
- Opting-in to a Sector Led Body that will negotiate contracts and make the appointment on behalf of councils, removing the need to set up an independent Auditor Appointment Panel.

The report looked at the advantages and disadvantages of each option and advised that Governance Committee in considering this matter on 25 January 2017 was recommending that the Council adopt option 3 in the report which was to opt-in to a sector led body.

Councillor Paul Leadbetter, Chair of the Governance Committee proposed, Councillor Anthony Gee, Vice Chair seconded and it was **RESOLVED – that the Council approve Option 3 in the report and accept the invitation from Public Sector Audit Appointments Ltd to become an opted-in authority for the purposes of the appointment of its external auditor.**

**17.C.413 Any urgent business previously agreed with the Mayor**

Councillor Alistair Bradley, Executive Leader proposed and Councillor Peter Wilson, Deputy Leader seconded a request for approval to a change in an outside body appointment.

**RESOLVED – that Councillor Jean Cronshaw replaces Councillor Margaret France as substitute member representative on the LCC Adult Social Care and Health Scrutiny Committee.**

Mayor

Date

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**Executive Cabinet**

1. Any Cabinet recommendations on the reports that require Council decisions appear as separate items on the agenda.

**GENERAL REPORT OF THE MEETING HELD ON 16 FEBRUARY 2017****Final report of Overview and Scrutiny Task Group – Child Sexual Exploitation**

2. The Chair of the Overview and Scrutiny Committee, Councillor John Walker presented a report on the work undertaken on a review of the Council's responsibilities in relation to Child Sexual Exploitation. Members of the Task Group were encouraged by the work already undertaken by the council to raise awareness of this type of abuse. However, it was felt that the authority could play a bigger role in this area.
3. The review had identified a set of recommendations that Members felt would keep SCE awareness at the forefront of people's minds and that checks and balances suggested would ensure that the council does not become complacent about its responsibilities and role in the community. Councillor Walker thanked the Chair, Councillor Roy Lees and members of the Task Group and officers involved with the inquiry.
4. The Executive Cabinet accepted the report of the Overview and Scrutiny Task Group for consideration and a response to the recommendations will be reported to a future meeting.

**Chorley Council Performance Monitoring Report – Third Quarter 2016/17**

5. The Executive Member (Resources) presented a report of the Director of Policy and Governance that set out performance against the delivery of the Corporate Strategy, and key performance indicators during the third quarter of 2016/17. 1 October to 31 December 2017.
6. Overall performance of the 2015/16 remained good, with 81% of projects either on track or complete. Only two projects (13%) were rated amber and action plans for each project was contained within the report. Only one (6%) was rated red, the delivery of the Friday Street Health Centre, due to a long standing issue regarding access to funding and although the project had undergone further consideration as part of a review by the Clinical Commissioning Group, clarification was still being sought on how this was progressing.
7. It was reported that this would be the final time that the 2015/16 Corporate Strategy projects would be report to Executive Cabinet. Those projects not yet completed, would either be carried over for delivery in the 2016/17 Corporate Strategy, were due to be completed in quarter four or alternatively would continue to be delivered through business as usual activity.
8. Performance for the Corporate Strategy indicators and key service delivery measures also remained good with 100% of the indicators and 80% of key service measures performing well above target or within the 5% tolerance. Only two measures were performing below target, time taken to process all new claims and change events for Housing Benefit and Council Tax Benefit and the number of missed collections of household waste. Action plans for these indicators had been developed to improve performance in these areas.

9. In response to members, it was explained that the target for processing all new and change events for Housing Benefit within six days was an ambitious one, having previously being 10 days, to reflect the Council's ambitions in service delivery. A 12 month training programme was currently underway in the Single Front Office which would mean increased resources being available to process benefit claims that would in turn improve on this indicator.

#### **Primrose Gardens Retirement Living Pre-Construction Services Agreement (PCSA)**

10. The Executive Member (Customer and Advice Services) presented the report of the Director of Business, Economic and Growth) that provided an update on the Primrose Gardens project and sought approval for entering into a contract with Eric Wright Construction to progress the first stage of site enabling works.
11. The main advantage of this approach would allow the Council to progress the site preparation whilst investing sufficient time for overall scheme costs to be refined and value engineered, It would also reduce the risk to the Council and ensure that the final contract price is fully market tested. An addendum to the report was also presented that provided an update on work being undertaken by officers to ensure that Primrose Gardens is viable for both capital and revenue financing.
12. The Cabinet granted approval for the Council to enter into a Pre-Construction Services Agreement (PCSA) under the Lancashire Regeneration Property Partnership to enable the site preparation works to commence, including the demolition of the HSS Hire and St John Ambulance buildings. The recommendation to use a JCT (D&B) 2016 form of contract for the construction contract was noted along with the proposal to change the tenure mix of the scheme to 100% affordable rent.
13. It was recognised that there was a strong possibility that additional HCA grant funding of approximately £300k would be secured to ensure all capital costs are fully funded and it was noted that this uplift in the HCA grant required the council to commit a start on site before 31 March 2017. The PCSA satisfies this because it is with the same contractor, who is the main development contractor. This will mean that the council will have entered into the HCA contract and would enable the first tranche of the grant (75% of the total) to be drawn.
14. It was noted that officers are exploring options to reduce the annual operational costs of the retirement village model. This would include the benchmarking of running costs against similar developments, in addition to a review of staffing and concierge services. Officers would also explore developing alternative models of generating income. This would include modelling income from the commercial aspects of the scheme and working with our health colleagues around a step down/re-enablement for a block number of units.

#### **Proposed Waste and Streetscene Staffing Review**

15. The Executive Member (Streetscene) presented the report of the Director of Customer and Digital that sought approval for a new proposed structure in the Waste and Streetscene team for consultation.
16. Following the management restructure in April 2016 and approval of the Streetscene Modernisation Strategy a review of the structure was thought necessary to ensure the service is able to deliver the priority areas of work over the next few years. The review will also drive

improvements in health and safety, productivity and the quality of work delivered by the teams on site. The proposed structure for consultation was approved along with delegated authority to the Executive Member (Streetscene) to approve the final structure, subject to there being no major changes. The Executive Cabinet also approved the two ERVS requests contained within the report.

## **GENERAL REPORT OF THE MEETING HELD ON 16 MARCH 2017**

### **Purchase of Victory Park and Oak House and Associated Land**

17. The Executive Member (Resources) presented the report of the Director of Policy and Governance requesting authorisation to purchase Victory Park, Oak House and associated land. The Council had been in negotiations with Northern Trust concerning a proposed land swap whereby Northern Trust would transfer their interest of the land opposite the Town Hall (comprising the Royal Oak Public House (the offices), the former Cash Converters site and offices occupied by Miller Metcalfe and Entwistle Green) and the Victory Park Football Ground site. In exchange, the Council would transfer their interest in the land at Southport Road, Chorley.
18. The Monitoring Officer advised that the sale of Southport Road was expected to be completed by the end of March. Whilst a short-term licence would be issued to Chorley Football Club, the Executive Leader made it clear that the Council had purchased land that the football club was sited upon, not the actual Football Club.
19. The Executive Cabinet granted approval for the Council to purchase the land and buildings known as Victory Park, Duke Street, Chorley for the sum of £200,000 and the land and buildings known as Oak House, High Street, Chorley to include the former Converters site, High Street Chorley and other offices within the title for the sum of £2.05m. The total estimated cost of the purchase including stamp duty and land tax is £2.375m.
20. Approval was also granted to the Council for the temporary use of prudential borrowing, if the receipt from the sale of Southport Road is not received before the purchase of Victory Park and Oak House. Delegated authority was also granted to the Head of Legal, Democratic and HR Services to prepare the necessary documentation to complete the purchase.

### **Home Energy Conservation Act (HECA) Report 2017**

21. The Executive Member (Early Intervention) presented the report of the Director of Early Intervention and Support that explained the Council's requirements in respect of the Home Energy Conservation Act (HECA) and to advise on HECA related activity carried out to date. The report also set out proposed HECA related activity for the future.
22. One of the key aspects of the Council's HECA report was work being undertaken to address Fuel Poverty. The Council's corporate strategy target is for Chorley's rates to be below the North West average and although Members noted that this target had been achieved, they still felt that there was additional work to be done in this area. The Executive Cabinet approved the proposed Council HECA related activities for the next two years as outlined in Appendix 1 of the report.

**Care Leavers Council Tax Discount**

23. The Executive Member (Customer and Advice) presented a report of the Director of Customer and Digital that highlighted the difficulties that Care Leavers can face when they leave care (aged 16 or over), and have to manage their own budgets for the first time.
24. To support care leavers, the Executive Cabinet approved the recommendation to make changes to our Council Tax Scheme (CTS) discretionary hardship policy to give Care Leavers who meet the CTS criteria 100% Council Tax relief, until they reach the age of 25. Approval was also given to approve the recommendation, that were a Care Leaver didn't meet the CTS criteria, the Council offers Council Tax relief of Chorley Council's element, which would roughly be 10%. The Council will also write to all major preceptors to make them aware of the difficulties Care Leavers face, and asking them to support giving all care leavers 100% relief until the age of 25 by contributing to the cost chargeable to this council's General Fund in proportion to their share of council tax income for 2017/18.

**Recommendation**

25. To note the report.

COUNCILLOR ALISTAIR BRADLEY  
EXECUTIVE LEADER

DS



## **REPORT OF OVERVIEW AND SCRUTINY COMMITTEE**

This report summarises the business considered at the meeting of the Overview and Scrutiny Committee held on 26 January 2017 and 30 March 2017, the Overview and Scrutiny Performance Panel held on 9 March 2017, and includes an update on the Task Group reviews.

### **OVERVIEW AND SCRUTINY COMMITTEE THURSDAY, 26 JANUARY 2017**

On behalf of the Committee, the Chair welcomed Councillor Peter Wilson, Executive Member for Resources to the meeting.

#### **Executive Cabinet meeting on 19 January minute number 17.EC.53 – Community Infrastructure Governance Arrangements and Allocation of Funding to Infrastructure.**

In response to queries raised by the Committee, the Executive Member for Resources confirmed that once the outcome of the review had been presented at Executive Cabinet and a resolution made, the report would be made available to the Neighbourhood Area Meetings taking place in June and July 2017.

#### **PCSO deployment and funding**

At the request of the Overview and Scrutiny Performance Panel held on 1 December, the Committee considered a report which detailed PCSO funding arrangements across Lancashire.

The report highlighted that the Chorley Council's contribution to part-funding PCSO posts was the highest across the county, and significantly higher than other district councils. It was reported that the Council part-funded 27 PCSO posts out of the total 47 part-funded posts across Lancashire. It was also reported that of the 51 posts fully funded by Lancashire Police none were deployed within the borough. It was therefore reasonable to assume that the fully funded posts were deployed elsewhere in the county were partner contributions were much lower.

Lancashire Police had been represented on a number of occasions at the Overview and Scrutiny Committee to provide an explanation of how the council's contribution was spent. On each occasion based on the response received, members did not consider that the Council was receiving value for money. As a result, members of the Committee considered that the amount of funding for the provision of PCSOs should be reviewed as part of the budget setting proposals.

#### **Budget Scrutiny - 2017/18 draft budget and summary position over the medium term**

The Executive Member for Resources presented a report on the 2017/18 draft budget and summary budget position over the medium term which was received at the Executive Cabinet meeting on 19 January 2017.

It was reported that the budget forecasts over the next three years had been updated to take account of a number of issues which included -

- Council tax to be increased by 2% in 2017/18, 2018/19 and 2019/2020
- The Draft Local Government Finance Settlement 2017/18 to 2020/21 published on 15 December 2016.
- Progress against the current Medium Term Financial Strategy (MTFS) budget efficiency objectives including staffing reviews, contract savings and base budget reviews.

Despite the unprecedented decline in government funding, the Council had maintained effective budgetary planning and continued delivering investment in its priorities while maintaining low Council Tax levels.

It was further reported that the Local Government Finance Settlement 2016 included core grant allocations for the forthcoming four years, from 2016/17 to 2019/20. To aid its medium term budget planning the Council opted to accept the government's offer of four year RSG allocations. In accordance with government requirements an Efficiency Plan was agreed at the Council meeting in September 2016.

During debate, members of the Committee acknowledged that difficult decisions had to be made and that it was important that a contingency plan be in place in anticipation of any further government announcement which would affect Council funding. Members of the Committee noted that there was some budget saving potential in procurement and shared service arrangements. The Executive Member for Resources also impressed the importance of the Council continuing to invest in major projects and events to generate income and attract businesses and home owners to the borough to ensure the Council's stability.

#### **Any other business agreed by the Chair - Effectiveness of Overview and Scrutiny Arrangements in England**

The Committee agreed to submit written evidence on a number of different aspects of the overview and scrutiny process to the Communities and Local Government Committee in response to their inquiry into the effectiveness of overview and scrutiny arrangements in England.

#### **OVERVIEW AND SCRUTINTY COMMITTEE – 30 MARCH 2017**

##### **Final Monitoring Report – Overview and Scrutiny Task Group (Staff Sickness Absence)**

The Committee received the final monitoring report from the Director of Policy and Governance which provided an update of progress made against the recommendations of the Staff Sickness Absence task group review, which were agreed at the Executive Cabinet on 20 June 2016.

It was reported that the biggest proportion of sickness absence was within the Customer and Digital Directorate, which was to be expected as it had the greatest number of staff and also contained the majority of the manual workforce.

The highest number of sickness absence days lost throughout the Council was due to stress/depression. The Director of Policy and Governance explained that a person suffering from this type of condition would often require a significant period of sickness absence, as the cause needed to be identified before a remedy could be found. However, members were reassured that the Council was proactive in trying to identifying instances of stress/depression in its workforce to prevent absences occurring and had a number of support initiatives that would be activated as soon as this type of condition was reported.

Members of the Committee also received a summary of the results of the sickness absence surveys which was detailed in the appendix to the report. The purpose of the surveys (which was a recommendation from the review), was to gain an understanding on how the sickness absence policy was being received by employees. The majority of employees felt that the

staff sickness policy was fair and that they felt supported by their manager and the Human Resources team while absent from work and on their return.

#### **Final Monitoring Report – Overview and Scrutiny Task Group (Single Front Office)**

The Committee received the final monitoring report from the Director of Customer and Digital which provided an update of progress made against the recommendations of the Single Front Office Task Group review.

All of the recommendations have been implemented, the progress of which included -

- On-line forms were continuing to be developed
- Further digital training being planned as part of the Chorley inner East project.
- Further engagement was due to take place with parish clerk to improve digital access and support for more parishes. Support would also be made available to partners exploring Cyber Cafés opportunities throughout the borough.
- A general review of software would be conducted to ensure information made available to customers as part of the workflows and processes stages, was clear and accurate.

#### **Final Monitoring Report – Overview and Scrutiny Task Group (Public Transport Issues in Chorley)**

Since the Executive Cabinet accepted the task group recommendations in November 2015, there had been significant changes to transport provision within the borough, mainly due to Lancashire County Council's budget review.

The Director of Policy and Governance informed the Committee that the Council had continued to subsidise the 109A/24A and 6/6A services covered in the first monitoring report. In addition the Council was funding a temporary new service (7C), and was working with Lancashire County Council to provide a permanent solution.

A number of the recommendations required the Council to lobby transport service providers, and work with other organisations to improve resident access across the borough were still ongoing. In addition, the Committee was informed that a Chorley transport plan would be considered as part of the Economic Development refresh.

### **OVERVIEW AND SCRUTINY PERFORMANCE PANEL – 9 MARCH 2017**

#### **Performance Focus - Business, Development and Growth**

The Director of Business, Development and Growth attended the meeting to answer questions in relation to the Business, Development and Growth directorate. The directorate, which was formed as part of the organisational restructure in May 2016, was primarily focused on driving economic growth and building the business rate base through the delivery of the Economic Development Strategy, and was responsible for delivering a number of the Council's strategic projects.

Future priorities for the directorate included –

- A refresh of the Economic Development Strategy.
- Identifying and bringing forward employment sites

**Performance Monitoring - Third Quarter 2016/17**

Overall performance of 2015/16 key projects was good, with 81% of the projects on track or complete. The projects to 'Deliver the Westway Integrated Sports facility' and 'Deliver the Chorley Skills framework' were rated amber. Actions to address the issues had been identified in both cases and were being implemented.

The 'Progress of the delivery of Friday Street Health Centre' was rated red due to external factors. It was reported that the Project Team was in regular dialogue with the Clinical Commissioning Group and continued to work with them to ensure this project was recognised as a high priority in support of the funding submission to the NHS England Estate and Technology Fund. At the point where confirmation to proceed with this project was given, all elements of the project would need to be refreshed. This would include scope, costs and timescales. For this reason it was reported that the project had been put on hold and would be removed from the monitoring report until the Council received confirmation to proceed.

In relation to the performance of key service delivery measures, there were ten indicators that were reported at the end of the third quarter. Six of the key service delivery measures were performing on or above target. Two key service delivery measures were performing worse than target, but within the 5% threshold. However, two key service delivery measures were below target at the end of quarter three –

- Time taken to process all new claims and change events for Housing Benefit and Council Tax benefit.
- Number of missed collections per 100, 000 collections of household waste;

Plans had been developed which outlined actions to be taken to improve performance.

**CRIME AND DISORDER SCRUTINY TASK GROUP REVIEW - CHILD SEXUAL EXPLOITATION (CSE)**

Members of the Committee received the final report of the CSE task group review.

Overall the task group was pleased with the work undertaken by the Council. However, it considered that the authority could do more in regards to training and raising awareness both internally and externally. As a result the task group put forward ten recommendations to be considered by the Executive Cabinet on 16 February, which included –

- Continued support and delivery of awareness raising initiatives with partner organisations
- Continuing to deliver training to specific officers
- Invite a representative from a high school and primary school to join the Chorley and South Ribble Community Safety Partnership
- Extend the current training delivered to member of the taxi trade to the wider licensing community.

**OVERVIEW AND SCRUTINY TASK GROUP – ROLLOUT OF SUPERFAST BROADBAND BY BT**

The Rollout of Superfast Broadband Task Group met on 22 March and appointed Councillor Kim Snape as the Chairperson. Members received a presentation from the Lancashire

Superfast Broadband team, which included an update from BT. Members requested further information from Lancashire Superfast Broadband and BT and was able to consider several potential recommendations during the meeting. The next meeting will be held early April, with a view to reporting before the end of the Municipal Year.

**COUNCILLOR JOHN WALKER**

**CHAIR OF THE OVERVIEW AND SCRUTINY COMMITTEE**

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**REPORT OF GOVERNANCE COMMITTEE**

1. This report summaries the business transacted at the Governance Committee meetings held on 25 January and 22 March 2017. Following apologies from the Chair, Councillor Paul Leadbetter, the Vice Chair, Councillor Anthony Gee took the Chair for the 22 March meeting.

**GOVERNANCE COMMITTEE – 25 JANUARY 2017****Governance Committee: Progress and Update Report**

2. The Committee received a report that showed progress made by our External Auditors in delivering their responsibilities. The 2016/17 Audit Plan was still on track to be issued by the end of March and be presented to the Committee's next meeting. Interim fieldwork visits had included a review of the authority's control environment, updating and understanding of financial systems, review of core financial systems, early work on emerging accounting issues, early substantive testing and a proposed Value for Money conclusion.
3. The scope of work to inform the 2016/17 Value for Money conclusion had changed as set out in final guidance issued by the National Audit Office and to ensure that the auditors were satisfied that the council have made proper arrangements for securing economy, efficiency and effectiveness in its use of resources, areas of focus would be around informed decision making, and the deployment of resources to achieve planned and sustainable outcomes for Taxpayers and local people. The report was noted.
4. Gareth Winstanley (Grant Thornton UK LLP) was attending his last meeting and the Chair, on behalf of the Committee, thanked Gareth for all his hard work and support over the years and wished him every success in his new venture.

**Treasury Management activity to 31 December 2016**

5. The Chief Executive submitted a report on Treasury Management and performance and compliance with Prudential Indicators in the financial year 2016/17 to the end of December. Average interest earned was 0.03% to the end of this period. As in 2015/16, cash balances had been used as a source of internal borrowing at higher rates of interest, thereby achieving revenue budget savings. Updated Capital Expenditure and Capital Financing Requirement Prudential Indicators would be presented in the Treasury Strategy report to Full Council on 28 February 2017 and to the next meeting of Governance Committee in March.
6. The Council's treasury advisors, Capita Asset Services, had provided a detailed commentary on interest rate forecasts which was appended to the report. Compared to the previous interest rates forecast, PWLB rates were lower than had been expected and were not considered likely to increase by much as had previously been suggested. It was anticipated that there would be the potential to borrow money more cheaply from other authorities rather than PWLB in the future. Any future projects that the Council may embark upon, would take into account the cost of borrowing for the organisation and associated risks. The report was noted.

**Changes to arrangements for appointment of External Auditors**

7. The Committee was reminded of the various arrangements available to the Council to appoint its external auditor beyond the 2017/18 financial year when the current contract with Grant Thornton UK LLP came to an end. These included setting up an independent auditor appointment panel or

opting into a Sector Led Body (SLB) that would negotiate contracts and make appointments on behalf of councils. The advantages and disadvantages were highlighted within the report.

8. Although the Council had until December 2017 to make an appointment, in practical terms, this would mean that one of the options would need to be in place by spring, to facilitate the negotiation process. Public Sector Audit Appointments LTD (PSAA) have been chosen by the Secretary of State for the SLB and on 27 October 2016, the Council received a formal letter of invitation to opt into the sector led approach.
9. The length of compulsory appointing period is five consecutive years from 1 April 2018 and any decision to become an opted-in authority must be taken in accordance with prevailing regulations that is by the members of an authority meeting as a whole. The closing date for acceptance is 9 March 2017 and the Committee agreed to recommend to Full Council the approval of option 3, thereby accepting the invitation from Public Sector Audit Appointments Ltd, to become an opted-in authority for the purposes of the appointment of its external auditor thus dispensing with the need to set up its own appointments panel.

#### **Internal Audit and Interim Report as at 30 December 2016**

10. The Head of Shared Assurance Services presented a report advising the Committee on the work undertaken in respect of the Internal Audit Plans for Chorley Council and Shared Services for the period August to December 2016 and its outcomes. The report also gave an appraisal of the Internal Audit Service's performance to date. All Audit Plans were on target to be achieved and the majority of performance indicators would either be achieved or exceeded.
11. A summary of all audit work completed since the last meeting was provided together with the control issues that had been identified. Three audits, Performance Management, Information Governance and Review of Fuel Consumption, had received a control rating of Red and the Committee discussed each of the areas in turn. A number of actions had been implemented that were all mainly around the completion of documentation to evidence the procedures and processes that had been carried out by officers to ensure compliance with policy and protocol.
12. The Committee were concerned about the number of systems that were in place that were not being followed by staff and although it was accepted that people were stretched and that this was part of the issue, the importance of following correct procedure and process was of paramount importance to the Council's governance arrangements and has such felt that officers needed to place greater importance to ensuring that correct systems were adhered to.
13. Members were informed that in line with the latest Internal Auditing practices, from 2017/18 they would be developing their approach to audit assignments by asking managers and staff to compile risk registers for each function/system under review. It was hoped that this would encourage a greater ownership of risk management within services and thereby improve the level of internal control operating throughout the Council. The report was noted.

#### **RIPA Inspection**

14. The Monitoring Officer presented a report that updated the Committee of a recent inspection that had taken place in September 2016 to assess compliance with our obligations under the Regulation of Investigatory Powers Act (RIPA). A copy of the Inspection Report undertaken by the Office of Surveillance Commissioners was appended to the report. The Council have not



granted a RIPA authorisation of any sort for a number of years and none since its last inspection. The report therefore confined itself to addressing how the Council complied with the recommendations of the last inspection and a review of current systems.

15. Member's attention was drawn to three areas of improvement that included minor factual changes to the body of the RIPA Policy, an expansion on guidance relating to social media and a review of the policy on the use of the CCTV suite situated within the police station. This would be undertaken jointly with Lancashire Constabulary to reflect that it is primarily used by them.
16. The Committee queried why the Chief Executive being appointed as the RIPA Senior Responsible Officer was considered unusual and were informed that although in many authorities this responsibility lay with the Monitoring Officer, the Council had taken the stance that as requests were so infrequent it would be more prudent for the Chief Executive to consider and authorise any requests. The report was noted.

## **GOVERNANCE COMMITTEE – 22MARCH 2017**

### **Audit Plan – Chorley Borough Council 2016/17**

17. The External Auditors, Grant Thornton, gave an overview of the planned scope and timing of the audit for the year ending 31 March 2017, allowing Members to understand the key requirements in bringing the plan together and the risks and consequences of the work being carried out. The aim was to complete all substantive audit work as part of the financial statements by 31 July 2017, and that as part of their opinion, consideration would be given to whether the authorities financial statements accurately reflect the financial reporting changes in the 2017/18 Code.
18. The audit focused on risks and the Committee's attention was drawn to those risks that had been identified as part of the process along with of the actions identified to improve in these areas.
19. The Code requires the External Auditors to consider whether the Council has put in place proper arrangements for securing economy, efficiency and effectiveness in the use of its resources, known as the Value for Money (VfM) Conclusion. It was reported that the results of their VfM audit work and key messages arising would be reported in the Audit Findings Report and Audit Letter. A conclusion on the Councils financial statements will be received by 30 September 2017.
20. As a result of an initial risk assessment, two areas of significant risks had been identified for further investigation:
  - Medium term financial planning, and
  - Risk management arrangementsDetails were provided within the report of the work proposed to address these risks. The Chief Executive commented that these areas were likely to be considered by all local authorities in view of current budget issues. He was however, confident that the Council could deliver as Chorley Councillors make collective, non-political decisions about such major issues. The report was noted.

### **Annual Audit Letter**

21. The Committee noted a report of our external auditor that provided a summary of the work carried out by them at Chorley Council for the year ended 31 March 2016. The letter communicated key

messages to the Council and external stakeholders, including members of the public. The report includes the audit conclusions which were provided in relation to 2016. Members were pleased to note that there were no findings of any concern.

22. Grant Thornton wished to extend their appreciation for the assistance and co-operation provided to them during the audit by the Council's staff. Gareth Winstanley had commented on how much he had enjoyed working with Chorley over the past five years and wanted to pass on his thanks to the finance team and the Committee.

### **Certification Work for the year ended 31 March 2016**

23. The External Auditors were required to certify the Housing Benefit subsidy claim for 2015/16 relating to expenditure of £26.2 million submitted by Chorley Council. Details of the claim certified was appended to the report and confirmed that no errors were identified that impacted on subsidy. The report was noted.

### **Governance Committee Progress and Update**

24. The Committee noted a report showing progress made by our External Auditors in delivering their responsibilities. The report also provided a summary of emerging national issues and developments that may be relevant to the Council and included a number of challenge questions in relation to these issues that the Committee may wish to consider.
25. A recent national report on Income Generation included a case study on Chorley Council's purchase of Market Walk. In response to the Chair, it was explained that there was a mixed picture regarding other authorities exploring income generation schemes. It was also reported that Grant Thornton had delivered some financial account workshops that Chorley Council staff had attended.

### **Understanding Local Authority Financial Statements**

26. The Chief Executive submitted a report on understanding local authority financial statements. Following feedback from consultations from local authority accounts preparers and the working group, the Telling the Story consultation set out proposals for change that CIPFA/LASAAC considers will reconnect the financial statements of local authorities with the way those authorities are both organised and funded.
27. The changes to the 2016/17 Code therefore has two main strands:
- To allow local authorities to report on the same basis as they are organised by breaking the formal link between the Service Reporting Code of Practice (SeRCOP) and the Comprehensive Income and Expenditure Statement
  - To introduce a new Expenditure and Funding analysis which provides a direct reconciliation between the way local authorities are funded and prepare their budget and the Comprehensive Income and Expenditure Statement in a way that is accessible to the lay reader. This analysis is supported by a streamlined Movement in Reserves Statement that will replace the current segmental reporting note.
28. The changes to the Code will for the first time allow local authorities to bring together the funding framework and the accounting framework in one analysis. It was highlighted to Members the

different formats that the newly presented information would take and officers advocated the reading of the CIPFA documentation to gain a better understanding of the changes. It was also suggested that Governance Committee Members would benefit from a training session on this topic.

### **Fighting Fraud and Corruption Locally – The Local Government Counter Fraud & Corruption Strategy 2016 – 2019**

29. The Head of Shared Assurance Services presented a report that evaluated the Council's compliance with Fighting Fraud & Corruption Locally – The Local Government Counter Fraud & Corruption Strategy 2016-2019. The report also presented an analysis showing the Council's existing compliance with the Strategy together with an action plan to address any areas of non-compliance.
30. Fighting Fraud and Corruption Locally is a strategy for English local authorities that is the result of collaboration by local authorities and key stakeholders from across the counter fraud landscape. Its production and subsequent implementation is overseen by an independent board, which includes representation from key stakeholders. The board commissioned the drafting and publication of the strategy from the CIPFA Counter Fraud Centre.
31. The 2016 Annual Governance Statement contained an action to undertake a review to ensure compliance with the requirements contained within the Fighting Fraud & Corruption Locally – The local government counter fraud and corruption strategy and companion. This review had now been undertaken and it had been highlighted that there were four requirements where the Council's arrangements could be strengthened and details of the further action required was detailed within the report. The report was noted.

### **Internal Audit Plan**

32. The Committee received a report of the Head of Shared Assurance Services that reminded members of their respective roles of managers and Internal Audit to maintain a sound system of governance and internal control within the Council. The report also sought approval of the 2017/18 Internal Audit Plan. The 2017/18 Internal Audit Plan contained the programme of reviews for the next financial year and was appended to the report.
33. As advised at the last Committee meeting, the team would be introducing a risk based approach to auditing from 2017/18 onwards. This approach is to encourage greater ownership of risk and control issues within services and to optimise the benefits from the Internal Audit Service. Using this revised methodology the team will audit all the Council's CRITICAL systems, and some MAJOR systems will be audited over the next two years. The Committee approved the Internal Audit Plan for 2017/18

### **Code of Corporate Governance**

34. The Director of Governance and Policy submitted a report to advise members of changes made to the Council's Code of Corporate Governance that was appended to the report. The Council are required to adopt a Code of Corporate Governance which demonstrates how the authority complies with its legislative requirements, the principles of good governance and management processes. In 2007 CIPFA/SOLACE issued a Framework and Guidance Document entitled Delivering Good Governance in Local Government which established the Framework and

Principles in which the Code could operate. Chorley Council has used this framework as the basis for our Corporate Governance since that time.

35. In 2012, to reflect a change in the Regulations, CIPFA/SOLACE issued new guidance and an addendum to the Framework. The Framework Document was reissued in 2016 and established seven Core Principles to replace the previous six. The focus of the Framework was now to encourage Local Authorities to establish local codes with their own approaches to Corporate Governance and the new Framework sought to promote a customer focus in how the Council seeks to achieve its objectives. Approval was granted to update the Code of Corporate Governance.

#### **Members Code of Conduct: Procedural Amendments**

36. The Committee received a report of the Monitoring Officer that sought approval of proposed changes to the Council's arrangements for Dealing with Complaints about the Conduct of Elected Members. A recent complaint had sought to withdraw a complaint concerning the conduct of an Elected Member after an Investigating Officers report had been completed. The report found that there had been a breach of the Code, however, the complainant had decided not to pursue the matter further.
37. In consultation with the Independent Person, the Monitoring Officer had concluded that without the engagement of the complainant, it would be difficult to evidence the complaint and it was jointly advised that the matter should be discontinued. Whilst there is provision for a departure from the current procedure to not specifically address the situation. It was felt that additional guidance should be included to support Members and Officers in making a decision where the complainant seeks to withdraw. The Independent Person explained that this course of action would enable more serious cases to be followed up even where withdrawn.
38. It was agreed to amend the Complaints about the Conduct of Elected Members section of the Constitution to include a specific provision for addressing the withdrawal of a complaint as detailed in paragraph 10 of this report and to recommend to full Council the approval of the change in the Constitution.

#### **Recommendation**

39. To note the report.

COUNCILLOR PAUL LEADBETTER  
CHAIR OF GOVERNANCE COMMITTEE

COUNCILLOR ANTHONY GEE  
VICE CHAIR OF GOVERNANCE COMMITTEE

DS



Report of	Meeting	Date
Monitoring Officer	Governance Committee	22 March 2017

## MEMBERS CODE OF CONDUCT: PROCEDURAL AMENDMENTS

### PURPOSE OF REPORT

1. To inform members of proposed changes to the Council's Arrangements for Dealing with Complaints about the Conduct of Elected Members and to get approval to the changes.

### RECOMMENDATION(S)

2. That the Arrangements for Dealing with Complaints about the Conduct of Elected Members be amended to include a specific provision for addressing the withdrawal of a complaint as detailed in paragraph 10 of this report.

### EXECUTIVE SUMMARY OF REPORT

3. Recently, a complainant sought to withdraw a complaint concerning the conduct of an elected member after an Investigating Officers Report had been completed. The report found that there had been a breach of the code. However, the complainant decided not to pursue the matter further.
4. The Monitoring Officer reviewed this matter in consultation with the Independent Person and concluded without the engagement of the complainant it would be difficult to evidence the complaint and it was jointly advised that the matter should be discontinued.
5. The Arrangements, whilst there is provision for departure from the procedure do not specifically address this situation. It is felt that additional guidance should be included to support Members and Officers in making a decision where the complainant seeks to withdraw.

<b>Confidential report</b> Please bold as appropriate	Yes	No
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### CORPORATE PRIORITIES

6. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	X

### BACKGROUND

7. A complaint was received in relation to the conduct of an elected member. The complaint was considered in accordance with the Arrangements for Dealing with Complaints about the Conduct of Elected Members.

8. It was found that the conduct alleged was a breach of the Code of Conduct and a local settlement was proposed. Performance of the local settlement failed to address the complaint and the matter was referred for Investigation. The Investigation Report did conclude that there had been a Breach of the Code and the matter was ready for hearing.
9. At that time the complainant having discussed this matter with the Monitoring Officer decided to withdraw their complaint. There is no specific procedure to allow for this and the Monitoring Officer considered that without the complainant, whilst the breach could still be evidenced the consequences of any finding and sanction imposed would be at the lower end of the scale. The procedure was discontinued.
10. It is proposed to introduce a new paragraph 18 to the Arrangements with the numbering of the remaining paragraphs amended accordingly. It is proposed that the new paragraph should read:-

#### **Discontinuance of Complaint**

Where a complainant indicates that they wish to withdraw their complaint the Monitoring Officer will consider the request against the following criteria

- a. Seriousness of the alleged misconduct. Where the allegation is serious in nature the Monitoring Officer should be reluctant to discontinue the process even when the complainant indicates they will not engage going forward.
- b. The importance of the evidence of the Complainant. The Monitoring Officer will consider whether the conduct complained of can be evidenced without the involvement of the Complainant.

The Monitoring Officer will then make a recommendation to the Independent Person who will consider and provide a view on the recommendation. The likely sanction to be imposed is a relevant consideration.

Where the recommendation is to discontinue the Investigation and this is accepted by the Independent Person then no further action will be taken other than to notify the complainant and the subject of the complaint.

#### **IMPLICATIONS OF REPORT**

11. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal		Integrated Impact Assessment required?	
No significant implications in this area	X	Policy and Communications	

#### **COMMENTS OF THE STATUTORY FINANCE OFFICER**

12. There are no financial implications of these changes.

#### **COMMENTS OF THE MONITORING OFFICER**

13. None save those in the body of the report.

CHRIS MOISTER

MONITORING OFFICER

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Chris Moister	5160	16 March	



Report of	Meeting	Date
Director of Governance and Policy	Council	11 April 2016

## CONTRACT PROCEDURE RULES PROPOSED AMENDMENTS

### PURPOSE OF REPORT

- To inform members of and seek approval for changes to the Council's Contract Procedure Rules

### RECOMMENDATION(S)

- That the Contract Procedure Rules be amended to require all High Value Procurements to have Executive Cabinet approval to proceed and Executive approval to award the contract.
- That the thresholds for Intermediate and High Value Procurements be amended to
  - Intermediate Value - £10,000 - £100,000
  - High Value - above £100,000

### EXECUTIVE SUMMARY OF REPORT

- In April last year Council agreed to amend the Contract Procedure Rules to reflect legislative and EU threshold changes and to make some practical updates.
- The practical updates included a change to the requirement to get Executive Member approval prior to inviting tenders, of the procurement procedure to be adopted, including the evaluation criteria and weightings to be applied for High Value Procurements, with the threshold for member pre-procurement approval being brought into line with the EU threshold for supplies and services (approx. £164k). This threshold for the purposes of Executive Approval would also apply to works contracts. Only the award of the contract would require Executive approval.
- Whilst there have been relatively few contracts of this type 2 concerns have been raised over these changes since implementation.
  - This may inhibit the transparency of decision making in that the requirement to get member approval increases awareness of the procurement process; and
  - There is still a requirement for key decisions to be made in accordance with the Council's constitution. By having a slightly different process this could lead to confusion.
- The proposal therefore is to require all High Value Procurements to have Executive approval to commence and Executive approval to award the contract.
- By aligning the High Value Procurement threshold with the key decision level (currently £100,000) will provide a consistency in the decision making.

<b>Confidential report</b> Please bold as appropriate	Yes	No
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### CORPORATE PRIORITIES

- This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	X

## BACKGROUND

10. As part of the continuous review of the Council's Contract Procedure Rules a report was brought to Council in April last year seeking approval of amendments as a result of legislative changes and practical alterations to the procedure.
11. The practical changes were proposed after a consideration of practices at other authorities and were an effort to streamline the decision making process enabling contracts to be let quicker.
12. To be clear the changes made provided a lawful process.

## EXECUTIVE MEMBER INVOLVEMENT

13. One of the changes made was to reduce the level of Executive Member approval required at pre-tender stage for the procurement procedure to be adopted, including the evaluation criteria and weightings to be applied for High Value Procurements. The threshold for member pre-procurement approval was increased to be in line with the EU services contract threshold of £164k. This was to apply to all contracts. The change would mean that fewer contracts would require Executive pre-tender approval and therefore there would be fewer delays. The approval requirements for the award decision post tender remained unchanged, with all high value contract award decisions still requiring Executive Cabinet approval.
14. This has led to a small reduction in the number of procurements receiving member pre-tender consideration, and in relation to those contracts it has allowed the process to progress more quickly.
15. However, on review 2 areas of concern have arisen. Firstly, the requirement to get Executive Approval pre-tender increases the transparency of the decision making process. An initial approval to proceed with the procurement process means that all members are made aware of the letting of the contract, not just the Executive and the publication of any report or decision ensures that residents are similarly kept informed. The threshold applied was felt to be too high and it was felt there would be a wider interest in the award of contracts below this level.
16. Secondly, the application of the threshold at EU levels introduced an additional step which could lead to confusion as it was above key decision level. The constitution requires Executive approval of key decisions (although this can be exercised by officers it should still be recorded in writing and published). The amendments led to a situation where there were 2 requirements in the constitution, relating to the same situation which were not exactly the same. The question arose which was the key decision the decision to proceed or the award of the contract.

## RESOLUTION OF ISSUES

17. Both the issues above are proposed to be addressed by aligning the High Value Procurement with the key decision level and by requiring all High Value Procurements to obtain Executive Approval to Proceed and Executive Approval to award the contract.
18. The preferred process will be a report to Executive Cabinet seeking approval to proceed with a proposed procurement process and a delegation to the relevant Executive Member to award the contract in compliance with that process.
19. However, to recognise there is an occasional need to move with urgency, there will be the option for the initial Executive approval to be by Executive Member Decision only rather than by Cabinet.



**IMPLICATIONS OF REPORT**

20. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	X	Customer Services	
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

**COMMENTS OF THE STATUTORY FINANCE OFFICER**

21. The proposed changes do not have any financial implications for the council but rather amend the procedure to be followed on getting Executive approval to progress the letting and award of a contract. The proposals provide a more robust and transparent procedure.

**COMMENTS OF THE MONITORING OFFICER**

22. The Council's Contract Procedure Rules are a council owned document and therefore it is within the Council's power to amend them. The proposals go further than is required to be legally compliant but will ensure greater transparency in decision making.
23. The key decision level is similarly capable of being defined locally.

CHRIS SINNOTT  
DIRECTOR OF GOVERNANCE AND POLICY

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Chris Moister	5160	31 March 2017	***

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## **GENERAL LICENSING SAFEGUARDING, SUITABILITY AND CONVICTIONS POLICY**

### **INTRODUCTION**

The Council is responsible for a multitude of licensing functions, including but not exclusively, Taxi Licensing, the licensing of Premises and persons for the sale of alcohol, late night refreshment, regulated entertainment, sexual entertainment, gambling and betting, street trading consents, houses in multiple occupation, caravan sites and animal welfare including boarding and breeding, pet shops, dangerous wild animals and zoos.

This policy guides decision making and can be applied to new and renewal applications as well as any existing licences and consents for any licensing functions where the Council considers this policy to be relevant, except Taxi Licensing, where there is a specific policy 'Safeguarding, Suitability and Convictions Statement of Policy for Taxi Licensing' adopted by the Council in November 2015.

The application of this policy is dependent on the legislation under which each licence or consent is issued. Appendix 1 provides a table of each licence and identifies where this policy can be applied, where the policy might possibly be applied or used to support decision making and also identifies the licences where there may be safeguarding risks but the current legislation does not permit safeguarding to be a consideration in the issue of a licence.

Licences and consents may only be granted where the Council is satisfied that the individual is a "suitable person" to hold such a licence or consent where the legislation permits this type of test to be applied.

Where, this Policy is applicable, it is intended to give guidance on whether an individual is or is not a "suitable" person; specifically, the situation where an individual has previous convictions, cautions, complaints, reprimands and/or other relevant matters.

In carrying out its Licensing functions the Council has a responsibility to protect public safety and therefore must ensure where possible:

- That an individual is a "suitable" person
- That the public are not put at risk by individuals with a history of dishonesty, indecency and/or violence
- The safeguarding of children, young persons and vulnerable adults

The Council also has a duty to prevent harm to animals as part of the wider licensing functions and therefore this secondary objective is relevant to all animal welfare licensing activities.

There is an expectation from the public that those persons trading under a licence or consent granted by the Council are trustworthy, honest and do not pose a risk to the safety of the public or to animals in their care.

For example, a street trader serving ice cream from a mobile unit which visits residential streets within the borough may have regular contact with children. They may also know where those children live, when parents are home or not and what holiday plans they may have, by building up trusting relationships with those customers.

The operator of a house in multiple occupation, as the owner of the premises, likely to have keys and access to the individual units, for the purposes of maintenance and safety. This type of accommodation may house young or elderly people or those with specific vulnerabilities.

For these reasons it is imperative that the Council has a robust policy for ensuring that all those given a licence or consent by the Council are suitable and safe to be trusted with the safety of the public and animals and the personal information they may hold on individuals.

### **Assessment of Suitability**

The most important questions that the Members of any Committee that decides on whether to grant, renew, suspend, revoke or refuse a licence or consent are:

1. Would I trust this person to be responsible for having access to any member of my family (children, parents, grandparents, grandchildren, husband, wife or pets), with particular regard to whether they might be alone &/or vulnerable at the time?
2. And would I trust this person with sensitive personal information about my routines and holiday plans?

If the answer to those questions is 'No', 'don't know' or 'not sure' then a licence should not be granted or renewed and should be refused or where an existing licence is in place revoked, on the grounds that Members are not convinced that the applicant is safe and suitable.

### **Safeguarding Considerations**

Particular regard must be had for the safeguarding of children and vulnerable adults. Vulnerable persons not only includes those with learning or physical disability or impairment (including dementia), but also includes those under the influence of drugs or alcohol, or in any other circumstances which render them less capable of making decisions; this might include suffering from shock after an incident or traumatic experience.

Following the review of Rotherham's Licensing Services serious failings were identified and consequently the Council did not take sufficient steps to protect the public. Chorley Council must learn from the mistakes of Rotherham and Rochdale and ensure that the appropriate policies and safeguards are in place to ensure that only those persons that meet the suitability test are permitted to hold any form of licence or consent issued by the Council.

Therefore, it is important to not only consider convictions but also take steps to give sufficient weight to relevant personal relationships and associations with known or suspected criminals, complaints, allegations, investigations, arrests and charges, even where

convictions are not secured, when making any decisions that can impact on the safety of the public.

The Licensing Committee is not a jury in a criminal court and does not have to be convinced beyond reasonable doubt of guilt. The precautionary principle should be applied in all cases where this policy is applicable.

Child Sexual Exploitation is not a remote problem that only affects other areas of the country, statistically there is evidence to support the claim that it happens everywhere, and that the people responsible for perpetrating and organising these crimes live and work in our communities. There is evidence of an association between taxi drivers, proprietors and operators and also other licenced premises, such as takeaways, pubs and off licences. As such the Licensing and Public Safety Committee and sub-committees have a clear responsibility to the public when making their decision, the consequences of failure in this respect are far reaching, not only personally for the victims, but also for the reputation of the Council.

### **Convictions**

Although convictions are not the only consideration for the Council, they are important and clear guidelines are crucial.

The Rehabilitation of Offenders Act 1974 does apply to all licences and consents (except for those licences relating to taxi drivers). It is acknowledged that employment plays a vital role in reducing reoffending and changing behaviour, however, the Council's primary role when carrying out the licensing function is to protect public safety and ensure all those persons licensed by the Council are suitable to hold such a licence or consent.

When submitting an application for a licence or consent individuals may be required to declare any and all previous convictions, this will depend on the legislation for each individual licence or consent. Individuals may also be required to disclose convictions which are not spent for the purposes of the Rehabilitation of Offenders Act 1974.

The information will be treated in confidence and will only be taken into account in relation to the relevant application and the associated legislation in order to assist the Council in determining whether the applicant is a safe and suitable person to hold a licence or consent.

We will consider all convictions based upon the Council's guidelines. When considering convictions, complaints, allegations, investigations, arrests and charges the Council will be mindful of the severity of, the relevance to the licence applied for and the time elapsed since the offence or alleged offence. The age of the applicant at the time of the offences/ alleged offences will also be taken into account.

Complaints include those made directly to the Council, police or any other agency. Intelligence received from other agencies, which includes circumstances that have not resulted in a criminal conviction, caution or other disposal may be taken into account. By way of example, this would also include incidents that have resulted in a police, trading standards or RSPCA investigation, but there has been no further action due to the criminal burden of proof or some other reason, if the Council is satisfied that the incident occurred based on the balance of probabilities.

The disclosure of a criminal conviction, caution or other relevant information relating to an individual's conduct will not debar that individual from being granted, retaining or renewing a licence or consent. It will depend on whether or not an individual can satisfy the Council that they are a "suitable" person to hold such a licence or consent.

The Council may not be satisfied that an individual is a "suitable" person to hold a licence for any good reason that is supported by legislation. If adequate evidence that an individual is a suitable person is not presented or if there is good reason to question or doubt the evidence provided, then that could amount to good reason to refuse a licence or consent or make any decision adverse to the licence or consent holder.

In considering evidence of an individual's good character and fitness to hold a licence or consent and where previous convictions / cautions or other information relating to criminal matters or character are disclosed, the Council will consider:

- The nature of the offence / issue and penalty
- When it was committed / took place
- The date of conviction / issue and the length of time elapsed
- The age of the individual when the offence / incident took place
- Whether or not it is part of a pattern of behaviour
- The intent the harm could or did cause
- Any other factors which may be relevant

Greater weight will be given to recent convictions, complaints, allegations, investigations, arrests and charges and in particular those criminal offences involving dishonesty, violence, drugs, alcohol, criminal damage and sexual offences, together with serious offences connected with the driving of a motor vehicle (where relevant to a street trading consent for a mobile unit, such as an ice cream van).

The Council will, where appropriate, contact other agencies (e.g. other local authorities, the Police, Children's Services, RSPCA) for any other information which they may hold in order to determine the application or existing licence or consent. This information will be kept in strict confidence and will be retained no longer than is necessary and in any event will be destroyed in accordance with the requirements of the Data Protection Act 1998 and good practice after the application is determined or any appeal against such determination is decided.

Whilst a licence or consent is valid, should we receive updates from the Police, of new convictions and cautions for licence/consent holders, this will allow us to decide whether action needs to be taken on the continuation of the licence or consent where permitted by legislation. It is the responsibility of each licence or consent holder, including any nominated assistant in relation to a street trading consent, to inform the Council promptly in writing of any conviction, caution or fixed penalty arising during the currency of the licence or consent. A criminal record check is required on application, and thereafter every three years for existing licence or consent holders, and nominated assistants. Applicants may wish to use the digital service provided by DBS for the annual updates.

**GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS**

The Council has adopted the following guidelines relating to the relevance of convictions to which it refers in determining applications for licences and consents.

The guidelines cannot deal with every possible offence and the Council will take into account offences not specifically referred to, or any other conduct which may be relevant to an application. If an applicant has a conviction for an offence not covered by the guidelines a judgement will be made based on the factors outlined at paragraph 3 when determining the application.

Offences are given a general description in the guidelines and offences of a similar nature created in any statutory provision, modification or re-enactment, will be taken into account and interpreted in accordance with the spirit of the guidelines

The guidelines are not an attempt to provide a definition of what constitutes a “suitable person”.

Any individual who is refused a licence or consent will need to refer to the individual legislation for the details of rights of appeal against this decision.

The guidance will be used for the determination of all new applications, the renewal of existing licences or consents and the continuous review of current licences or consents where any offences are committed during their period of validity.

**General Policy**

1. Each case will be decided on its own merits.
2. The public has an expectation that the Council will take the necessary steps and make appropriate checks to ensure that applicants are suitable to persons to hold any licence or consent granted by the Council. One aspect of this is the extent to which previous convictions indicate that an individual is not a safe and suitable person and / or may or otherwise take advantage of the role and information that the licence or consent provides. This includes, but is not limited to, convictions for:
  - Offences against children, young people, vulnerable adults or animals
  - Dishonesty
  - Sexual offences
  - Violence and drugs
  - Traffic offences
3. Whether an applicant has any recorded criminal activity is a critical factor in making this judgement.
4. Convictions or cautions which are recorded for any offences may be considered by the Council in determining an application. This guidance refers to the most common groups of relevant offences, namely, offences against children and young persons, dishonesty, sexual offences, traffic offences, violence and drugs.

5. An offence when committed in relation to carrying on the business for which the licence or consent is granted (or complaint about behaviour) will be viewed in a more serious light and a longer period of rehabilitation will be required.

A person with a conviction for a single serious offence or a number of separate offences is not barred from applying for a licence or consent, but would normally be expected to remain free from conviction for an appropriate period (which will depend on the nature of the offence) and be able to provide supporting evidence to show that they are a 'suitable' person to be granted or to continue to hold a licence or consent (the onus is on the individual to produce such evidence).

Simply remaining free of conviction will not generally be regarded as sufficient evidence.

Consideration will be given to any patterns of offending, intent and the harm which was or could have been caused.

Multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account. Any case which involves a sexual offence, murder or manslaughter the application / licence will normally be refused / revoked.

The table in Appendix 1 provides details of relevant offences for each licence or consent. Where offences or convictions exist the Council will need to consider the relevance and make a determination on an individual basis.



# Appendix 1- Table of Licences, identification of safeguarding risks and summary of where legislation allows the application of the General Safeguarding Policy

Safeguarding Policy is applicable	Safeguarding Policy potentially applicable	Safeguarding Policy currently not applicable
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Licence, Permit or Consent	Legislation	Criteria for grant and (if applicable) criteria for sanctions such as suspension and revocation	Safeguarding risks identified	Relevant Convictions where policy might be applied	Recommendations and comments on application of policy and legislative provisions
Street Trading Consent	Local Government (Miscellaneous Provisions) Act 1982 Sch. 4	Grant if Council “thinks fit” to persons over 17. Conditions may be attached to prevent obstruction or nuisance and limit location & times of trading. Other conditions may be attached which are reasonably necessary. Suspension not available. Grounds for revocation not stated but will include breach of conditions.	Access to children and vulnerable adults, potentially on a regular basis. Ability to locate close to areas where children congregate, such as school and parks. Young adults working for traders Mobile vendors have regular rounds in residential areas, so potential to obtain personal information such as holiday plans- any issues of dishonestly or links to burglary etc. Supply of drugs	Supply of drugs Burglary Dishonesty Sexual Offences Violence Offences Serious Motoring Offences (as detailed in Table A – Major Traffic Offences, in the Taxi Licensing Safeguarding, Suitability and Convictions Policy)	Street trading policy includes reference to general safeguarding and a requirement for a basic DBS – legislation allows for inclusion of conditions and procedures including nuisance. The relevant convictions relating to safeguarding risks could reasonably be considered as nuisance behaviour in the context of the Act when applying the policy and taking enforcement for breach of conditions or refusing an application on the basis of convictions.
Licence for House in Multiple Occupation	Section 64 Housing Act 2004	Council must grant licence if (i) house suitable or can be made suitable (ii) applicant fit & proper (iii) manager of house fit & proper. Fit & proper test includes dishonesty, violence, drugs or sexual offences, unlawful discrimination, breach of landlord & tenant law or prescribed code of practice by applicant and/or associate. Also management competence threshold. Revocation for serious breach of conditions; if licence holder and/or manager no longer fit & proper or if HMO no longer suitable under criteria prevailing at time. Revocation with consent of holder immediate; otherwise after appeal not made or appeal concluded	Access to personal information and property. Type of property may mean proportionally a greater number of young, elderly or vulnerable adults access this type of accommodation- risks relates to any issues of dishonestly or links to burglary etc. for managers and landlords.	Drugs Burglary Dishonesty Notifiable Sexual Offences Violence Offences	Legislation makes specific reference to ‘fit and proper’. Safeguarding policy can be applied to these Licences. <b>Action:</b> Update conditions for licence to reference safeguarding policy and introduce additional record check requirements, Basic DBS to be included with application for grant and renewal.

Licence for Dangerous wild animals	S.1 Dangerous Wild Animals Act 1976	Grounds for granting licence: if not contrary to public interests as regards safety, nuisance or otherwise, (ii) applicant must be a suitable person (iii) animal will be secured and well treated and able to exercise. More wide ranging discretion than with other animal related licences but relates to protection of the public from the animal and not just welfare. Also a suitable person test. Court not Council may cancel licence or disqualify for breaching licence conditions or offences under animal welfare laws.	Animal Welfare considerations- allegations or convictions for cruelty. Suitable person test.	Supply of drugs Sexual Offences Violence Offences Cruelty/abuse of animals	The policy of the Act is animal welfare and protection of the public from the animal and nuisance. However, the additional considerations would be accepted because of the suitable person test. Someone involved in crime or drugs or with a history of violence might use the animal as a weapon. <b>Action:</b> Update conditions for licence to reference safeguarding policy and introduce additional record check requirements, Basic DBS to be included with application for grant and renewal.
House to House Collections	s.2 House to House Collections Act 1939	Licence granted by Council under s.2 House to House Collections Act 1939. Short term promotions certificated by police. Refusal or revocation on grounds that too few proceeds applied to charitable purpose, remuneration excessive, could enable begging or applicant/holder convicted of offences in Schedule to 1939 Act	Access to persons at their home address. Potential to gain access to individual premises and possible vulnerable persons.	Robbery Burglary Blackmail Dishonesty Sexual Offences Violence Offences Child abduction Failure to ensure that collectors fit and proper Refusal/failure to provide information	Refusal or revocation only on conviction for offences in Schedule to 1939 Act. <b>Action:</b> Review procedures for applications, possible inclusion of Basic DBS check to ensure no recent relevant convictions
Licence for a Sexual Entertainment Venue	Schedule 3 of Local Government (Miscellaneous Provisions) Act 1982 as amended by Police and Crime Act 2009	Application subject to 28 day objection period. Police and public may object. Refusal if applicant unsuitable because convicted of any offence or for any other reason, if unsuitable person connected with applicant or if it would be inappropriate for locality. Criteria for refusal in paragraph 12 to Sch 3 i.e honest, qualified to run establishment, management structure, treatment of performers, protects public. Council may limit no. of premises for borough which can be nil but must in words of council policy in place since January 2011 be "rationally underpinned". No	Potential for the exploitation of vulnerable adults. There is a risk of sexual or violent offenders being given access to individuals Access to Children should be limited and controlled by licence conditions and legislation.	No limits in 1982 Act and CBC policy in para 2.2 refers to refusal for "any offence"	The Council currently has no SEV licences, but Legislation would allow for the Safeguarding policy to be used to underpin decisions. <b>Action:</b> None at this time

		determination on appropriate number made by the Council. Licence fees set at £8,000. Annual renewal fee also £8,000 Criteria for revocation by council only if licence holder unsuitable or associate of applicant unsuitable. Suspension not available,			
Licence for a Sex Shop	Local Government (Miscellaneous Provisions) Act 1982	Same criteria for grant and revocation as sexual entertainment venue. Application subject to 28 day objection period. Police and public may object. Refusal if applicant unsuitable because convicted of any offence or for any other reason, if unsuitable person connected with applicant or if it would be inappropriate for locality. Criteria for revocation by council only if licence holder unsuitable or associate of applicant unsuitable. Suspension not available.	Access to Children should be limited and controlled by licence conditions and legislation.	No limits in 1982 Act and CBC policy in para 2.2 refers to refusal for "any offence"	There is one licensed sex shop in the Chorley area. Legislation would allow for the Safeguarding policy to be used to underpin decisions. <b>Action:</b> None at this time
Personal licence (required to be held by Designated Premises Supervisor in licensed premises)	Section 120 Licensing Act 2003	Must be granted to persons over 18 who hold licensing qualification. If police object because applicant has committed any offence in Sch. 5 to Licensing Act 2003 (including licensing, dishonesty, drugs, sex offences) then may be refused.		Convictions contained in Schedule 4 to the Licensing Act 2003 which are not spent	If the police object, is it a straightforward refusal, or conditions can be applied. The Council would use the safeguarding policy to inform decision making and support decision. <b>Action:</b> None at this time
Licence for caravan Site/ Residential Park	Section 12A Caravan Sites and Control of Development Act 1960 as amended by Mobile Homes Act 2013	Occupier's site licence. Discretion on conditions on site licences to protect persons in caravans and wider public. Can condition occasions/no. of caravans, types, position, amenity, fire safety, sanitation. Court may revoke site licence on application of council if holder convicted 3 times for breaching conditions or a compliance notice. Power to make regulations requiring that manager of relevant protected site must be fit & proper not	Access to personal information and property. Type of property may mean proportionally a greater number of young, elderly or vulnerable adults access this type of accommodation- risks relates to any issues of dishonestly or links to burglary etc for managers and landlords.	Burglary Dishonesty Sexual Offences Violence Offences	Legislation does not currently support the application of a fit and proper test, safeguarding policy cannot be implemented at this time DCLG Guidance issued in March 2015 makes no mention of safeguarding issues. Case law has held that conditions more appropriate as a planning condition cannot be imposed. All that shows site licences are about the land, not the people. The Tribunal will have regard to the Model Standards 2008 (which are

		in force. It may be possible to revisit once s.8 in force. Council will be able to ask court to revoke on 3rd conviction or if manager not fit and proper to apply to Residential Property Tribunal to revoke.			all about the site and not persons) when determining any appeal. Also provision in s.8 Mobiles Homes Act 2013 regarding managers being fit & proper not in force. It may be possible to revisit once s.8 in force. <b>Action:</b> Review conditions and policy once legislation is updated by inclusion of s. 8
Cosmetic piercing (ear and body), Tattooing, acupuncture, electrolysis and semi-permanent skin colouring	Section 16 Local Government (Miscellaneous Provisions) Act 1982	Council issues certificate of registration rather than licence. No grounds for refusing certificate. Council has statutory duty to issue. Model byelaws adopted in 2007 create offences. Magistrates' Court (not council) may suspend or cancel registration on conviction for breaches of byelaws. Council may not issue future consent except without consent of magistrates. Council cannot cancel.	Access to Children should be restricted, as the legislation required adult accompaniment and consent for body piercing activities and under 18's should not be accepted by the Tattooist. Any person carrying out these activities on adults, will have one to one access to individuals, including intimate areas. There is a risk of sexual or violent offenders being given access to individuals with particular additional risks where the registration for the activity is at the private address of the applicant.	Supply of drugs Sexual Offences Violence Offences	Legislation and Byelaws concentrate on Health and Hygiene, No provision to include Safeguarding until the legislation or byelaws are updated. Some Council's prefer not to issue certificate of registration at domestic premises. We cannot just walk in unlike retail premises. We would need a warrant first. <b>Action:</b> Possibly review the registration procedure and policy with regard to domestic premises.
Premises licence/club premises certificate for sale of alcohol or late night refreshment	Section 18/Section 72 Licensing Act 2003	Likely to promote licensing objectives of (i) prevention of crime & disorder (ii) public safety (iii) prevention of public nuisance and (iv) protection of children from harm. Sanctions if licensing objectives compromised to significant degree	The current licensing legislation provides safeguards through the licensing objectives. It is the Licensing Authorities responsible to ensure appropriate conditions are agreed with the Premises Licence Holder to meet those Licensing objectives and reduce risks at each individual premise.	Any convictions relating to the four licensing objectives	Currently, there is no fit and proper test permitted in the legislation so safeguarding policy cannot be applied to these licences. The Licensing Objectives form the basis of decisions and enforcement in relation to these licences. <b>Action:</b> None at this time
Licence for Gambling and Betting premises	Gambling Act 2005	Likely to promote licensing objectives	The current licensing legislation provides safeguards through the licensing objectives. It is the Licensing Authorities responsible to ensure appropriate conditions are agreed with the Licence Holder to meet those Licensing objectives and reduce risks at each individual premise.	Any offence relating to the licensing objectives in Gambling Act 2005	Currently, there is no fit and proper test permitted in the legislation so safeguarding policy cannot be applied to these licences. The Licensing Objectives in the Gambling Act 2005 form the basis of decisions and enforcement in relation to these licences. <b>Action:</b> None at this time

Licence to keep riding establishment	S.1 Riding Establishments Act 1964	Animal welfare only express criteria in 1964 Act. A vet report must be considered before grant. S.7(4) provides that licence may be withheld on any grounds but must have regard to (i) management skills of applicant (ii) condition, accommodation, fire safety, health & welfare of horses. Council has no power to cancel licence but court may cancel it and disqualify a person from keeping a riding establishment. only on welfare grounds. No power to suspend.	Access to Children and vulnerable adults, potentially on a regular basis- specifically unsupervised lessons for children both able bodies and disabled, and vulnerable adults- learning or physical disability. Physical contact required in order to assist with mounting and dismounting horses and rider positioning. Employment or voluntary work by young people, working as stable hands/grooms etc.  Animal Welfare considerations- allegations or convictions for cruelty.	Cruelty/abuse/neglect of animals	Legislation does not currently support the application of a fit and proper test, safeguarding policy cannot be implemented at this time as the legislation only permits the consideration of health and safety and animal welfare issues. Any abuses in relation to employment are dealt with under employment law, not licensing. The Act exists to protect the animals, not employees or volunteers. <b>Action:</b> Encourage use of BHS safeguarding guidelines in establishments.
Licence for Animal Boarding	S.1(3) Animal Boarding Establishments Act 1963	Criteria for refusal relate to accommodation, feeding, health and fire safety. Court, not council may cancel licence and disqualify holder if convicted for animal welfare offences. No power to suspend.	Access to personal information of customers- holiday plans, address etc. any issues of dishonesty or links to burglary etc. Employment or voluntary work by young people, working as kennel/cattery hands etc.  Animal Welfare considerations- allegations or convictions for cruelty.	Cruelty/abuse/neglect of animals	Legislation does not currently support the application of a fit and proper test, safeguarding policy cannot be implemented at this time as the legislation only permits the consideration of animal welfare issues. Any abuses in relation to employment are dealt with under employment law, not licensing. The Act exists to protect the animals, not employees or volunteers. <b>Action:</b> None at this time
Licence for Animal Breeding	S1(4) Breeding of Dogs Act 1973 and 1991	Only court, not council may cancel licence or order disqualification following conviction for offences of breaching licence conditions Disqualification may be ordered by court under 1991 Act for obstructing officer or vet with warrant.	Employment or voluntary work by young people, working as kennel/cattery hands etc. .  Animal Welfare considerations- allegations or convictions for cruelty.	Cruelty/abuse/neglect of animals	Legislation does not currently support the application of a fit and proper test, safeguarding policy cannot be implemented at this time Only conviction for offences under 1973 Act are grounds for cancellation. Any abuses are dealt with under employment law, not licensing. The 1973 Act exists to protect dogs, not employees or volunteers. <b>Action:</b> None at this time
Licence for a Pet Shop	S.1 Pet Animals Act 1951	Only court, not council may cancel licence or order disqualification following conviction for offences of breaching licence conditions or other	Employment of young people, working as assistants etc.  Animal Welfare considerations-	Cruelty/abuse/neglect of animals	Legislation does not currently support the application of a fit and proper test, safeguarding policy cannot be implemented at this time as the

		animal welfare laws	allegations or convictions for cruelty.		legislation only permits the consideration of animal welfare issues. Any abuses in relation to employment are dealt with under employment law, not licensing. The Act exists to protect the animals, not employees or volunteers. <b>Action:</b> None at this time
Licence for Zoo	Zoo Licensing Act 1981	Council must take into account representations from police, local planning authority and others. Refusal on grounds of (i) adverse effect on health & safety of nearby residents (ii) law and order; (iii) poor conservation measures (iv) animal welfare or if applicant convicted of animal welfare offences (v) lack of planning permission . Zoo Closure Direction may be made if breach of conditions not addressed, nuisance caused, or if licence holder or keeper convicted of animal welfare offences.	Employment or voluntary work by young people, working with animals etc. Animal Welfare considerations- allegations or convictions for cruelty.	Cruelty/abuse of animals	Legislation does not currently support the application of a fit and proper test, safeguarding policy cannot be implemented at this time as the legislation only permits the consideration of animal welfare issues. Any abuses in relation to employment are dealt with under employment law, not licensing. The Act exists to protect the animals, not employees or volunteers. <b>Action:</b> None at this time

# STREET TRADING POLICY



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## Introduction

The purpose of this policy is to clarify the Council's position in relation to Street Trading and ensure that such trading is done in accordance with the Council's Strategic Objectives to promote a Strong Local Economy and Clean, Safe and Healthy Communities.

Street trading means the selling, exposing or offering for sale any article, including a living thing, in a street. This includes the sale of food and ice cream from mobile units, but does not include news vendors, any trading done in a market, acting as a pedlar under a pedlar's certificate or the delivery of goods as a roundsman, such as a milkman.

Chorley Council operates a consent scheme, whereby certain streets are either consented for trade or prohibited. These are identified in Appendix 1.

The Council may impose conditions to any consent and may also set fees and charges applicable to the consent.

It is an offence to trade without a consent, trade on a prohibited street, make a false statement in an application for consent or to contravene any conditions relating to the time and place of trading.

The Council may also revoke a consent where the trader is investigated by the police, charged or convicted of an offence or contravenes the conditions of the consent or for any other reasonable cause, or refuse to grant a consent where the application pre-requisites are not met or for any other reasonable cause.

The Council's licensing role to protect public safety should be reflected in any such similar regulatory functions, such as Street Trading Consents, to ensure that the public is not put at risk by granting of a consent to individuals that they do not think suitable to hold such consent. Therefore the General Licensing Safeguarding, Suitability and Convictions Policy will be used to also consider the suitability of individuals as street traders to apply a consistent approach to protecting public safety. This policy is attached as Appendix 3.

## Legislative background

The Local Government (Miscellaneous Provisions) Act 1982, Part III and Schedule 4, is the primary legislation under which street trading is regulated. However, regard must also be had for other relevant legislation, such as Food Safety Act 1990 and the associated regulations, Anti-social Behaviour, Crime and Policing Act 2014, Health and Safety at Work etc. Act 1974 and associated regulations, Environmental Protection Act 1990, Trading Standards legislation, and this Street Trading Policy.

Under the Council's Scheme of delegation, officers have the authority to grant a street trading consent. Any refusal or revocation of such a consent, or the addition of any individual conditions, would be delegated to the relevant Director in consultation with the Chair or Vice Chair of the Licensing and Public Safety Committee.

The legislation does not provide for the right of appeal to the Magistrate's Court. Any appeal against decisions would be through Judicial Review. Alternatively a complaint could be made to the Local Government Ombudsman, although this is not an appeal and the Ombudsman could not overturn the decision.

## Application pre-requisites

Applications must be made on the official application form (Appendix 2) and accompanied by a passport sized photograph of the applicant.

The applicant must pay the applicable fee to the Council upon application.

No-one under the age of 17 is permitted to trade under a consent.

Where food is being sold, the applicant must also be a registered food business, this must be in the local authority area where their registered office is (this may be their home address).

Traders that employ staff must have employer's liability insurance.

Any Staff employed must be nominated and their photographs supplied with the application.

An Applicant, including for any nominated assistant, must present a Basic Disclosure and Barring Service (DBS) certificate which is less than 2 months old at the date of application, or electronic updates will be accepted. The cost of the DBS will be borne by the applicant. Where there are any convictions then the application will be determined by the relevant Director in consultation with the Chair or Vice Chair of the Licensing and Public Safety Committee.

Where a street trading consent or licence has previously been revoked, either by Chorley Council, or any other authority, the Council may refuse an application for consent.

Any trader selling food must achieve a minimum Food Hygiene Rating Score of 3 in order to be eligible for a consent. The consent would be revoked where the trader falls below this minimum rating of 3.

## Conditions of consents

A consent will only be granted for a period of 12 months and may be revoked at any time for any reasonable cause, as determined by the Council.

The Council may, in granting or renewing a consent, impose such conditions as it considers reasonably necessary.

The following standard conditions will apply:

- (a) A street trader shall not trade within 50 metres of a fixed retail shop selling similar goods as its principal business, during the shop opening hours for the particular shop.
- (b) Only those goods originally nominated by the applicant to be sold. Any changes to be notified to the Councils' Regulatory Services Team by the consent holder before sales commence.
- (c) Nuisance or annoyance shall not be caused (whether to persons using the street or otherwise).
- (d) No obstructions of any street or persons using it shall be caused.

- (e) The trader shall display his/her name and consent number in a prominent position on the vehicle, cart, barrow or portable stall at all times when trading.
- (f) The trader shall produce, on the request of an authorised officer of the Council, evidence of his/her identity. A passport size photograph must accompany the application form which will be used for this purpose if consent is granted.
- (g) The trader shall at all times ensure compliance with all legislation relevant to the conduct of the business, in particular:
  - (i) any vehicle used must be in roadworthy condition, taxed and insured.
  - (ii) any vehicle used shall not be sited in contravention of parking restrictions.
  - (iii) any loudspeaker may only be used in accordance with Section 62 of the Control of Pollution Act 1974, and,
  - (iv) any vehicle or stall used for the sale of food shall comply at all times with the Food Safety and Hygiene (England) Regulations 2013 and Regulation 852/2004 Annex II Chapter III.
  - (v) where food is being sold, the applicant must also be a registered food business, this must be in the local authority area where their registered office is (this may be their home address).
- (h) The trader shall provide adequate receptacles for rubbish and remove all rubbish deposited in the vicinity of the vehicle or stall.
- (i) Trading may only take place between the hours of 07.30am and 11pm on any day. Consent holders may apply to the Council for consideration to be able to trade outside of these hours. The Council reserve the right to revise any extended operation hours at any reasonable time.
- (j) The trader shall ensure that where food (including drinks) is sold, they achieve a minimum Food Hygiene Rating Score of 3.
- (k) Traders are expected to maintain high levels of good conduct and therefore must not interfere with any other trader in their lawful operations.
- (l) A trader will be required to provide a Disclosure and Barring Service Certificate with each application, including for any nominated assistant.
- (m) The trader must notify the Council in writing of any charges, convictions or cautions within 7 days which arise during the course of the consent, including for any nominated assistant, failure to do so may result in refusal to grant any future applications.
- (n) The holder of any consent may employ any other person to assist him without a further consent being required. For any such assistants nominated, a basic DBS must be completed for this person and their photographs to be supplied with the application.

NOTE The Council may vary these conditions at any time.

## **Fees and Charges**

The Council will set the fees for street trading consent annually.

Traders who reside inside the borough will be subject to a discounted fee, to promote economic growth and development for Chorley residents.

If consent is surrendered or revoked during the 12-month period, the Council will charge an administration fee. Surrendered or revoked consents will be subject to a pro-rata refund based on whole and part months when trading has taken place.

## **Enforcement**

Where, during the course of the consent, there are any charges, police investigations, and/or convictions against the consent holder or nominated assistant, the consent may be revoked with immediate effect. A consent may also be revoked for any other reasonable cause.

In the event that a further application for a Street Trading consent is made following revocation of a previous consent the matter will be passed to the relevant Director in consultation with the Chair or Vice Chair of the Licensing and Public Safety Committee, where the General Safeguarding, Suitability and Convictions policy will be applied.

Failure of the trader to advise the Council in writing of any charges, police investigations and/or convictions or cautions within 7 days which arise during the term of the consent may result in refusal to grant any future applications.

Where a complaint is received from either the public or another authority, such as the police or local authority, the complaint will be investigated and the Council may revoke the consent where a condition has been breached, they consider that on a balance of probabilities that an offence has been committed or the reputation of the Council may be undermined by the activities of a consent holder or for any reasonable cause.

Where two consent holders are investigated due to complaints of breaches of conditions or arguments over trading times and areas, both consent holders will be expected to fully participate in mediation. Where issues persist or mediation is refused the Council may consider enforcement action or referral to the General Licensing Sub-Committee for a consideration of the matter and a decision on whether to apply additional conditions, revoke or renew consents for either or both parties.

## **Appeals**

Where a Street Trading Consent is revoked there is no right of appeal through the courts. Chorley Council has agreed the implementation of an internal appeal procedure, where applicants refused a consent or subject to revocation can appeal to the General Licensing Sub-Committee.

Where a consent is revoked, the appeal must be made to the Council within 21 days and trading will not be permitted until the appeal has been heard and the decision published.

## Appendix 1- Prohibited and Consent streets

The Council has adopted a system of street trading comprising of designated “prohibited streets” and “consent streets”.

### PROHIBITED STREET

A “prohibited street” means a street or area in which street trading is prohibited. In Chorley the prohibited streets with are:

(i) All land and streets in the open air, generally in the areas known as Rivington and Anglezarke within the Borough of Chorley. (Signs mark the approximate boundary of this area, further details are available from the Regulatory Services Team, telephone 01257 515151).

(a) There are three sites in this area where trading is permitted, these sites are let on a twelve month licence by Tender from United Utilities, Andertons Yard, Horwich - a street trading consent is also needed from Chorley Council.

(ii) The area of land adjacent to the Market Walk Development in Chorley bounded by the Market Walk Development, the car park and New Market Street, Chorley.

(iii) Streets in the area of the General Market, Chorley Town Centre:

Cannon Street	High Street	Chapel Street	Market Place
Cleveland Street	Market Street	Clifford Street	New Market Street
Fazakerley Street	Union Street		

iv) The M6 Services at Charnock Richard and the M61 Bolton West Services.

### CONSENT STREET

A “consent street” means a street or area where trading is not allowed without the consent of the Council. A consent is a document issued by the Council.

In Chorley all streets other than prohibited streets are designated “consent streets”. This means that a person wishing to trade in those streets must obtain the consent of the Council.

A “street” includes any road, footway or other area to which the public have access without payment. Therefore, the Act can apply to public and private car parks, shopping centres and leisure areas. However, to trade in a private area you still need the permission of the landowner as well as a street trading consent from the Council.

### Exemptions

Street Trading means that selling or exposing or offering for sale of any article (including a living thing) in a street but this does not include:

- (a) trading as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871;
- (b) anything done in a market or fair (a public event where there is a variety of goods and entertainment available) the right to hold which was acquired by virtue of a grant, enactment or order;
- (c) trading in a trunk road picnic area provided under the Highways Act 1980;
- (d) trading as a news vendor;
- (e) trading as:
  - (i) a petrol filling station
  - (ii) at a shop or on a street adjoining premises so used and as part of the business of the shop;

(f) selling things, or offering or exposing them for sale as a roundsman. This means purely delivering goods which have been pre-ordered before you arrive at the premises, or delivering a regular order, such as with a milk round. Delivering a small amount of pre-ordered goods, when the majority of your business is to offer a range of goods for customers to choose from on site, does not qualify you as a roundsman.

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**  
**PART III - STREET TRADING**  
**APPLICATION FOR STREET TRADING CONSENT**

GRANT / RENEWAL Application (delete as appropriate)

(Please use CAPITAL LETTERS)

NAME: \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_ NI Number: \_\_\_\_\_

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ADDRESS: \_\_\_\_\_

POSTCODE: \_\_\_\_\_ TEL NO. \_\_\_\_\_

TYPE OF VEHICLE: \_\_\_\_\_ REG NO \_\_\_\_\_

ARTICLES TO BE SOLD: \_\_\_\_\_

IF NO VEHICLE, OTHER METHOD OF SALE: \_\_\_\_\_

WHERE AND WHEN DO YOU PROPOSE TO TRADE: \_\_\_\_\_

I ENCLOSE FEE OF £  
 (Cheques payable to Chorley Borough Council)

I AM OVER 17 YEARS OF AGE

Signed \_\_\_\_\_ Date \_\_\_\_\_

Fees: Applicants residing within the Borough: £440.50 per annum.  
 Applicants residing outside the Borough: £562 per annum.

- NOTES:
1. A Consent granted will be valid for a period of twelve months from the date of issue.
  2. Completed application forms, DBS certificate and passport size photograph of the consent holder to be returned to: **Regulatory Services Section**  
**Early Intervention and Support Directorate**  
**Civic Offices**  
**Union Street**  
**Chorley PR7 1AL**

**DATA PROTECTION ACT 1998**

The information on this form will be used by Chorley Council under the terms of the Data Protection Act 1998 and will only be used in connection with the operation of the Environmental Services Unit. In case of query please contact the nominated Chorley Council Data Protection Officer at the Civic Offices, Union Street, Chorley, PR7 1AL.

**FOR OFFICE USE ONLY**

Received: \_\_\_\_\_ Consent issued: \_\_\_\_\_ No. \_\_\_\_\_ Fee Paid \_\_\_\_\_

EHFQ032Rev 5- Jan 2017





## LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

### STREET TRADING CONDITIONS

The Council has adopted a system of street trading comprising of designated “prohibited streets” and “consent streets”.

#### 1. PROHIBITED STREET

A “prohibited street” means a street or area in which street trading is prohibited. In Chorley the prohibited streets with are:

- (i) All land and streets in the open air, generally in the areas known as Rivington and Anglezarke within the Borough of Chorley. (Signs mark the approximate boundary of this area, further details are available from the Regulatory Services Team, telephone 01257 515151).
  - (a) There are three sites in this area where trading is permitted, these sites are let on a twelve month licence by Tender from United Utilities, Andertons Yard, Horwich - a street trading consent is also needed from Chorley Council.
- (ii) The area of land adjacent to the Market Walk Development in Chorley bounded by the Market Walk Development, the car park and New Market Street, Chorley.
- (iii) Streets in the area of the General Market, Chorley
 

Cannon Street	High Street
Chapel Street	Market Place
Cleveland Street	Market Street
Clifford Street	New Market Street
Fazakerley Street	Union Street
- iv) The M6 Services at Charnock Richard and the M61 Bolton West Services.

#### 2. CONSENT STREET

A “consent street” means a street or area where trading is not allowed without the consent of the Council. A consent is a document issued by the Council.

In Chorley all streets other than prohibited streets are designated “consent streets”. This means that a person wishing to trade in those streets must obtain the consent of the Council.

A “street” includes any road, footway or other area to which the public have access without payment. Therefore, the Act can apply to public and private car parks, shopping centres and leisure areas. However, to trade in a private area you still need the permission of the landowner as well as a street trading consent from the Council.

There have been different interpretations as to what constitutes a “street” for a number of years. The law was clarified in 2009 by the case heard in the High Court, of West Berkshire District Council v Simon Paine [2009] EWHC 422 (Admin). The essential point from the case is that a “street” can include private land such as a private car park, even though the public might not be expected to enter the land, they can do so, without

payment. It does not just mean land which is part of a highway. This means that a number of activities that have not previously been considered to require a Street Trading Consent, will require one from now on. For example, parking on the private car parks of businesses, and selling goods to the employees, requires a Street Trading Consent.

You might also need planning permission if you want to trade from the same place on a regular basis or if you want to trade from a Council owned car park - contact the Council's Planning Section, Civic Offices, Union St, Chorley, telephone number (01257) 515151.

You should also contact Lancashire Highways Agency (Tel: 0845 0530011) to establish whether they have any comments regarding the proposed location of trading.

### **Exemptions**

Street Trading means that selling or exposing or offering for sale of any article (including a living thing) in a street but this does not include:

- (a) trading as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871;
- (b) anything done in a market or fair (a public event where there is a variety of goods and entertainment available) the right to hold which was acquired by virtue of a grant, enactment or order;
- (c) trading in a trunk road picnic area provided under the Highways Act 1980;
- (d) trading as a news vendor;
- (e) trading as:
  - (i) a petrol filling station
  - (ii) at a shop or on a street adjoining premises so used and as part of the business of the shop;
- (f) selling things, or offering or exposing them for sale as a roundsman. This means purely delivering goods which have been pre-ordered before you arrive at the premises, or delivering a regular order, such as with a milk round. Delivering a small amount of pre-ordered goods, when the majority of your business is to offer a range of goods for customers to choose from on site, does not qualify you as a roundsman.

### **3. GENERAL CONDITIONS TO A TRADING CONSENT**

A consent will only be granted for a period of 12 months and may be revoked at any time for any reasonable cause, as determined by the Council.

The Council may, in granting or renewing a consent, impose such conditions as it considers reasonably necessary.

The following standard conditions will apply:

- (a) A street trader shall not trade within 50 metres of a fixed retail shop selling similar goods as its principal business, during the shop opening hours for the particular shop.

- (b) Only those goods originally nominated by the applicant to be sold. Any changes to be notified to the Councils' Regulatory Services Team by the consent holder before sales commence.
- (c) Nuisance or annoyance shall not be caused (whether to persons using the street or otherwise).
- (d) No obstructions of any street or persons using it shall be caused.
- (e) The trader shall display his/her name and consent number in a prominent position on the vehicle, cart, barrow or portable stall at all times when trading.
- (f) The trader shall produce, on the request of an authorised officer of the Council, evidence of his/her identity. A passport size photograph must accompany the application form which will be used for this purpose if consent is granted.
- (g) The trader shall at all times ensure compliance with all legislation relevant to the conduct of the business, in particular:
  - (i) any vehicle used must be in roadworthy condition, taxed and insured.
  - (ii) any vehicle used shall not be sited in contravention of parking restrictions.
  - (iii) any loudspeaker may only be used in accordance with Section 62 of the Control of Pollution Act 1974, and,
  - (iv) any vehicle or stall used for the sale of food shall comply at all times with the Food Safety and Hygiene (England) Regulations 2013 and Regulation 852/2004 Annex II Chapter III.
  - (iv) where food is being sold, the applicant must also be a registered food business, this must be in the local authority area where their registered office is (this may be their home address).
- (h) The trader shall provide adequate receptacles for rubbish and remove all rubbish deposited in the vicinity of the vehicle or stall.
- (i) Trading may only take place between the hours of 07.30am and 11pm on any day. Consent holders may apply to the Council for consideration to be able to trade outside of these hours. The Council reserve the right to revise any extended operation hours at any reasonable time.
- (j) The trader shall ensure that where food (including drinks) is sold, they achieve a minimum Food Hygiene Rating Score of 3.
- (k) Traders are expected to maintain high levels of good conduct and therefore must not interfere with any other trader in their lawful operations.
- (l) A trader will be required to provide a Disclosure and Barring Service Certificate with each application, including for any nominated assistant.
- (m) The trader must notify the Council of any charges or convictions which arise during the course of the consent, including for any nominated assistant, failure to do so may result in refusal to grant any future applications.
- (n) The holder of any consent may employ any other person to assist him without a further consent being required. For any such assistants to be nominated, a basic DBS must be completed for this person and their photographs to be supplied with the application.

NOTE The Council may vary these conditions at any time.

4. **APPLICATION PRE-REQUISITES**

Applications must be submitted on the official application form and be accompanied by the appropriate fee (See below). A passport size photograph of the consent holder should be included with the completed application form. A valid Disclosure and Barring Service (DBS) is also required before the grant or renewal of a consent.

A consent will not be granted to any person under 17 years of age.

A consent will only be granted for a period of 12 months, but can be revoked at any time.

A consent will only be granted where the applicant provides a basic Disclosure and Barring Service (DBS- formerly the CRB) certificate, this must be less than 2 months old at the date of application, including for any nominated assistant. The applicant will be required to make an appointment the Council for this to be completed by contacting the Transactional Team on 01257 515151.

Where there are any convictions then the application will be determined by the Director in consultation with the Chair of the Licensing and Public Safety Committee.

Where a street trading consent or licence has previously been revoked, either by Chorley Council, or any other authority, the Council may refuse an application for consent.

5. **FEES & CHARGES PAYABLE**

Applicant residing within the Borough as per current published fees

Applicant residing outside the Borough as per current published fees

If consent is surrendered or revoked during the 12-month period, the Council will charge an administration fee of £62. Surrendered consents will only be refunded for the remaining whole months of the consent.

6. **PENALTIES FOR NON-COMPLIANCE**

It is an offence to:

- (a) Engage in street trading in a prohibited street.
- (b) Engage in street trading without consent in a street.
- (c) Make any false statement in an application for consent.
- (d) Engage in Street Trading from a vehicle, cart, barrow or portable stall without a consent permitting it.
- (e) Contravene conditions relating to the time and place of trading from a vehicle, cart, barrow or portable stall.

The maximum fine on summary conviction is £1,000.

Further advice and information is available from the Regulatory Services Team, Early Intervention Directorate, Tel: (01257) 515151.

**STREET TRADING CONSENT GUIDANCE NOTES****FOOD SAFETY AND HYGIENE (ENGLAND) REGULATIONS 2013  
REGULATION (EC) 852/2004 ANNEX II CHAPTER III**

1. High risk foods, e.g. cooked meats, uncooked pies and pasties, quiches, soft cheeses, prepared vegetable salads, egg mayonnaise, fresh cream cakes, sandwiches containing high risk foods etc. must be stored at not more than 8°C as soon as possible after arrival on the vehicle or stall. A thermometer should be provided for each refrigerator. If any of these foods are intended to be sold hot, they must be kept at not less than 63°C whilst awaiting service.
2. Hand washing facilities and facilities for the washing of food and equipment are required on the vehicle or stall.
3. Interior wall and roof surfaces must be in good order, repair and condition to enable them to be effectively cleaned e.g. laminated plastic with sealed joints, or any smooth impervious hard finish.
4. The floor must be in good repair and condition to enable it to be effectively cleaned, e.g. metal, heavy duty vinyl with as few joints as possible.
5. Work surfaces and shelving must be covered with a suitable impervious material e.g. stainless steel or laminated plastic. Legs to the above should be gloss painted or covered with an impervious material which can be effectively cleaned.
6. The interior of the vehicle must be kept clean at all times.
7. There must be adequate natural or artificial lighting provided.
8. All containers for foods must be of such a type to prevent any contamination of the food, and be kept clean.
9. Refuse containers must be provided, with tight fitting lids, inside the vehicle, and outside for use by customers if the vehicle is parked for any length of time.
10. Food should not be placed so as to involve risk of contamination.
11. Any unfit or unsound food must be kept apart from any other food.
12. Open food e.g. sandwiches, cakes, biscuits etc. must be kept covered whilst exposed for sale with a suitable clean cover.
13. No live animal shall be carried in a food vehicle.
14. Wrapping materials or containers must be clean and not allow any contamination of the food. Any printed material e.g. newspapers must not be used to directly wrap food in.

**PERSONAL HYGIENE REQUIREMENTS**

1. A clean and washable overall must be worn at all times.
2. Keep all cuts and abrasions covered with waterproof dressings.
3. Smoking is prohibited within the vehicle at all times.
6. If a food handler becomes aware that they are suffering from any food poisoning type illness they must notify the owner of the business and refrain from work. They should not return to work until they have been given medical clearance by their GP.

If they have salmonella, dysentery or staphylococcal infection they must notify the owner of the business who then must notify the Environmental Health Officer. They must refrain from work until cleared by the Officer.

**FOOD REGISTRATION**

If food intended for sale from a vehicle or stall etc., is stored elsewhere than shop premises, the Local Authority must be informed so that the storage premises can be inspected by an Environmental Health Officer.

Under the Regulations, the premises where the vehicle is normally kept will have to be registered. Forms are available from this department if the vehicle is kept in the Chorley Area. There is no charge for registration. If you do not keep your vehicle/trailer/stall within the Borough of Chorley, please contact your local Environmental Health Department.

**GUIDANCE NOTES FOR HEALTH AND SAFETY PRACTICES IN MOBILE FOOD  
VEHICLES**

**GENERAL REQUIREMENTS**

1. Employers have a legal duty to employees including the provision and maintenance of plant and systems of work, provision of training and supervision, safe handling and storage of substances and articles and provision of a safe working environment.
2. Employers and the self-employed have a duty not to expose persons not being employees to any risk to their health and safety. Includes, members of the public and patrons of the food business.
3. Employees must safeguard themselves and their colleagues and co-operate with their employer in connection with those duties imposed upon them.
4. As from 1 April 1996, the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) requires that Chorley Council are notified of:
  - (i) All injuries to employees or self-employed persons which result in more than seven days off work should be notified within ten days of the accident, using Health and Safety Executive website.
  - (ii) All fatalities and specified major injuries to employees or self-employed persons, all specified dangerous occurrences, and any incident arising from work where a member of the public is killed or taken to hospital direct from site. Notification in these instances must be made immediately by the quickest practicable means (usually telephone) and followed by formal notification within ten days.
  - (iii) Certain prescribed industrial diseases, for more information see HSE website.
5. The Health and Safety (First Aid) Regulations 1981 place a duty on employers and the self-employed to provide a clean first aid box containing only specified first aid materials (ie no medicines, tablets, antiseptic etc.) and a guidance card on emergency first aid. In addition, employers must nominate as a minimum, a person to look after the first aid equipment, and to call the emergency services if necessary. Notices should be displayed giving the location of the kit.
6. The Electricity at Work Regulations 1989 place a duty on employers and the self-employed to ensure the safety of all electrical equipment. Planned routine maintenance is essential, and regular checks should be made to ensure the safety of equipment and the electrical installation.
7. The Control of Substances Hazardous to Health Regulations 2002 place a duty on employers and the self-employed to assess the potential health risk to employees and others by work with hazardous substances and to control those risks identified and monitor the effectiveness of any control measure introduced.
8. Any vehicle or trailer used must be so constructed and maintained as to be roadworthy.



**LIQUEFIED PETROLEUM GAS (LPG)**

1. Increasing concern is shown over the safety of LPG installations. LPG is a convenient, easy to handle fuel but it is a potentially dangerous substance. LPG takes the form of commercial propane, marketed in red or orange cylinders, and commercial butane, marketed in blue, green or yellow cylinders. The principal danger lies in the release of gas into a confined space, which can result in a fire or explosion risk. LPG is heavier than air, therefore leaking gas will usually descend.
2. The installation of gas appliances, flues, pipework, valves etc. must be undertaken by a competent person (Gas Safe registered) and should comply fully with all relevant British Standards.
3. Regular maintenance and examination of the installation should be carried out, including leak testing by the use of soapy water or similar. Naked flames must never be used.

**LPG STORAGE ACCOMMODATION**

1. Containers or cylinders of LPG and any manifold and changeover valves must be positioned in the open air or separate ventilated housing outside the body of the vehicle.
2. The ventilated housing may be recessed into the body of the vehicle, but must be sealed from the vehicle so that escaping gas cannot be released within the vehicle itself. Ventilation to external air may be achieved by ventilating the base or the side away from the vehicle, or both, using reinforced mesh or similar strong supporting construction. Ventilation at low level is very important.
3. All cylinders must be securely attached to the vehicle with their valves uppermost and be readily accessible to permit the changing or quick removal when necessary.
4. The compartment or housing construction must be of non-combustible material giving at least 30 minutes fire resistance, located to prevent damage to cylinders if subject to impact during a RTA. Joint's to be bonded or fire-stopped to prevent fire or hot gas spreading into the vehicle.
5. Access to the housing should only be from the outside of the vehicle, be secure to prevent tampering, but containers must be accessible in emergencies. The access point should be located on the nearside of the vehicle to minimise the risk of the operator being struck by a passing vehicle when changing the cylinders.
6. A Notice should be fitted to the outside of the housing to indicate the presence of LPG. Pictorial signs must comply with the Health and Safety (Signs and Signals) Regulations 1996.
7. Sources of ignition must be prohibited within one metre from the storage housing:
  - (i) The exhaust pipe may require shielding to prevent it becoming a source of ignition.
  - (ii) No part of the electrical installation must pass through the housing unless protected from mechanical damage.
  - (iii) The battery must be positioned away from the housing to prevent the risk of ignition of any escaping gas.

**PIPEWORK AND JOINTS**

1. Pipework should be LPG compatible, adequate rating and resistant to corrosion and abrasion, supported at intervals of not more than one metre, or 500mm in the case of soft copper.
2. Pipework passing through walls or partitions must be protected by grommets to prevent abrasion or fracture. Pipework passing beneath the vehicle must be installed to prevent mechanical damage from debris such as flying stones.
3. Pipework and fittings should be of solid drawn copper tube with copper or copper alloy fittings, or stainless steel tube and appropriate compression or screwed fittings. Copper pipework should not be exposed to temperatures above 100°C.
4. Every pipe containing LPG should terminate with a readily accessible shut-off valve or tap immediately before the appliance, in a readily accessible position. Taps should indicate clearly open and shut positions, and directions they must be turned to close them.
5. A shut-off valve should also be fitted prior to the first appliance on the line from the cylinders.

**FLEXIBLE HOSES**

1. Lengths must be kept to a minimum for essential flexibility.
2. High pressure hoses must be provided with integral threaded ends.
3. Low pressure hoses must be joined using either integral threaded ends, crimping or use of suitable hose clips (not of the worm-driven type).
4. Flexible hoses should not be used when temperatures exceed 50°C unless braided or armoured.

**APPLIANCES**

1. Appliances must be:
  - (i) Securely fastened to the vehicle.
  - (ii) Sited so as to allow easy access so that, in an emergency, the means of escape is not endangered.
  - (iii) Installed, maintained and serviced, in accordance with the manufacturer's instructions.
2. Appliances must not be sited in a position where heat from them may create a fire hazard or cause damage to surrounding material.
3. A flame failure device, which shuts off the supply of gas if the flame is extinguished is recommended to each appliance in all cases.
4. Appliances should not be lit whilst the vehicle is in motion, except that LPG fuelled refrigerators may be used on the road provided that:

- (i) A flame failure device is fitted and an adequate flue is provided.
  - (ii) It is properly secured, and does not show naked flame.
5. Refrigerators, when used on the road, are recommended to have an additional air intake of not less than 13cm<sup>2</sup> (1,300mm<sup>2</sup>) fitted in the floor of the vehicle below the refrigerator, but this must be sited so as to prevent a draught extinguishing the burner or pilot flame.
6. It is encouraged that a 12v battery source is used on freezer and refrigerators whilst vehicles are in motion.
7. Frying ranges should be fitted with:
- (i) An automatic high temperature limit device which will shut off the main burner if the temperature exceeds 230°C.
  - (ii) An automatic temperature control to maintain the temperature of the frying medium, with a maximum setting of 205°C.
8. Alternatively, a tap or valve should be fitted to control the main burner, together with a visual temperature indicating device incorporating an alarm mechanism if the temperature of the frying medium exceeds the pre-set value.

## **GAS SAFETY**

### **MAINTENANCE AND INSPECTION BY EMPLOYERS AND USERS**

1. Regulation 35 of GSIUR requires employers to ensure that gas appliances, flues, pipe work and safety devices are maintained in a safe condition. They should be inspected by a competent person in accordance with current industry practice. Periods between inspections may vary depending on the equipment and its use and should follow manufacturer's recommendations, but as a general rule **annual inspection** will be a reasonable minimum frequency.
2. It is the responsibility of the street trader to ensure that the competent persons carrying out the inspection and maintenance of the appliances are registered with Gas Safe and hold the qualification of Commercial Catering and LPG. More information can be found on the Gas Safe Register website at [www.gassaferegister.co.uk/](http://www.gassaferegister.co.uk/) or alternatively contact the Public Protection team at Chorley Council on 01257 515151.
3. A copy of the inspection report should be kept with the vehicle / trailer and made available for inspection at any reasonable time by an authorised officer.

## **VENTILATION**

1. Adequate ventilation must be provided in every vehicle compartment where LPG fuelled appliances are used.
2. Suitable flues must be fitted to all appliances where required and flueless appliances avoided.

#### **FIRE PRECAUTIONS**

1. Clear written instructions must be displayed inside the vehicle, detailing the action to be taken in the event of fire or gas leakage.
2. A fire blanket should be provided, especially where frying is undertaken.
3. A dry powder fire extinguisher of 4.5kg capacity should be a minimum provision and will be suitable for both LPG and fat fires. The extinguisher must be located in a readily accessible position adjacent to the exit.
4. Access to and from the vehicle should be safe and free from obstructions.

**Appendix 3- General Licensing Safeguarding, suitability and convictions policy**

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