



CONSTITUTION WORKING GROUP **Tuesday, 30th June, 2015**

Place: Civic Offices, High Street, Epping

Room: Committee Room 1

Time: 7.00 pm

Democratic Services Officer M Jenkins Democratic Services 01992 56 4607
mjenkins@eppingforestdc.gov.uk

Members:

Councillors M McEwen (Chairman), M Sartin (Vice-Chairman), D Dorrell, A Mitchell MBE, J Philip, C C Pond, C P Pond, D Stallan, G Waller, S Watson and J H Whitehouse

1. APOLOGIES FOR ABSENCE

2. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

(Director of Governance) To report the appointment of any substitute members for the meeting.

3. DECLARATIONS OF INTEREST

(Director of Governance) To declare interests on any items on the agenda.

4. NOTES OF THE LAST CONSTITUTION AND MEMBER SERVICES SCRUTINY PANEL MEETING HELD ON 3 AND 17 MARCH 2015 (Pages 3 - 8)

The attached notes from the Constitution and Member Services Scrutiny Panel meeting held on 3 and 17 March 2015 are here as an aid memoir, they have already been confirmed by the Overview and Scrutiny Committee.

5. POSITION STATEMENT AND PROGRAMME (Pages 9 - 14)

(Director of Governance) To consider the attached report, Terms of Reference and Work Programme.

6. OFFICER EMPLOYMENT PROCEDURE RULES (Pages 15 - 28)

(Director of Governance) To consider the attached report and appendix.

7. CONTRACT STANDING ORDERS - REVIEW PROCESS (Pages 29 - 32)

(Director of Communities) To consider the attached report and appendix.

8. EXECUTIVE PROCEDURE RULES AND REVISED ARTICLES (Pages 33 - 58)

(Director of Governance) To consider the attached report and revised Articles.

9. FUTURE MEETINGS

The next scheduled meeting of the Working Group will be held on **Tuesday 22 September 2015 at 7.00p.m. in Committee Room 1** and thereafter on the following Tuesdays at the same time and same venue:

1. 24 November;
2. 26 January 2016; and
3. 22 March.

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF CONSTITUTION AND MEMBERS SERVICES SCRUTINY
PANEL
HELD ON TUESDAY, 3 MARCH 2015
IN COMMITTEE ROOM 1
AT 7.00 - 9.32 PM**

Members Present: Mrs M Sartin (Chairman), D Dorrell, J Lea, Mrs M McEwen, J Philip, Mrs C P Pond, C C Pond, D Stallan, Mrs J H Whitehouse and G Waller

Other members present:

Apologies for Absence: A Watts and S Weston

Officers Present S G Hill (Assistant Director (Governance & Performance Management)), S Tautz (Democratic Services Manager) and M Jenkins (Democratic Services Assistant)

35. NOTES OF THE LAST MEETING

RESOLVED:

That the notes of the last Panel meeting held on 16 February 2015 be agreed.

36. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

It was noted that Councillor C C Pond was substituting for Councillor S Weston.

37. DECLARATION OF INTERESTS

There were no declarations of interest made pursuant to the Code of Member's Conduct.

38. TERMS OF REFERENCE / WORK PROGRAMME

(a) Terms of Reference

The Panel's Terms of Reference were noted.

(b) Work Programme

The following regarding the Panel Work Programme was noted:

(i) Item 5 Articles of the Constitution

The Articles were currently being re-drafted.

(ii) Item 7 Constitution – Thresholds for Leases and Licences

A report would be submitted at a later meeting from the new manager of Estates.

39. AMENDMENTS TO THE COUNCIL'S COMPLAINTS SCHEME

The Panel received a report from the Assistant Director (Legal Services) regarding Amendments to the Council's Complaints Scheme.

The Council's complaints scheme had four stages, an investigation of a complaint at each stage was undertaken by the following:

- (a) Step 1 – Manager of the Service area concerned;
- (b) Step 2 – Director or Assistant Director;
- (c) Step 3 – Complaints Officer on behalf of Director of Governance; and
- (d) Step 4 – Member Complaints Panel

The Panel was informed that in 2006 the Local Government Ombudsman introduced the "12 week rule" which urged councils to complete every stage of a complaint within 12 weeks of their first receipt. Inability to do so meant the complainant had the right to bypass any remaining stages in the complaints procedure and instead take their complaint to the Ombudsman. However, the complaints procedure adopted by the District Council made it impossible to complete all four stages within 12 weeks. Investigations at Steps 1, 2 and 3 usually took around 3 – 4 weeks each to complete. A complainant remaining dissatisfied could request a further review, although it could take 7 – 8 weeks to organise a meeting of the Step 4 Member Complaints Panel.

Therefore complainants were advised that it was not possible to offer a Step 4 review within the 12 week time limit, therefore they had the right to bypass this and take their complaint to the Ombudsman. It was advised that since 2007 no complainants had requested a review of their complaint upon completion of the Step 3 part resulting in very few Panel meetings during this time.

Members noted that discontinuing Steps 1 – 3 would not resolve the problem because whichever two of the three stages were retained, would still require a total of around 8 weeks to complete, which would not leave enough time to organise a Complaints Panel review within the 12 week time limit. It was advised that no other local authority in Essex, or indeed the rest of the country, had as many stages for complaints or offered a final review by Members.

Members supported recommending the changes. It was advised that a report would be submitted the Overview and Scrutiny Committee and the Council.

RECOMMENDED:

That the Amendments to the Council's Complaints Scheme be recommended to the Overview and Scrutiny Committee.

40. CONSTITUTION REVIEW - COUNCIL PROCEDURAL RULES

The Panel received a report regarding the Constitution Review – Council Procedural Rules from the Assistant Director (Performance Management) Governance.

Following on from the last Panel meeting in February, Members made progress with the procedure rules commencing from Item 9 "Interests" paragraph 1.5 "Conflicts of Interest" to Item 12 "Questions by Members," 12.10 "Supplementary Question."

However the meeting was adjourned to the next scheduled meeting date of 17 March in order to complete the work on the procedure rules.

RESOLVED:

That the Panel meeting be adjourned to the next scheduled meeting date of 17 March to continue the work undertaken on the Council Procedure Rules.

41. REPORTS TO BE MADE TO THE NEXT MEETING OF THE OVERVIEW AND SCRUTINY COMMITTEE

It was advised that the report regarding Amendments to the Council's Complaints Scheme would be submitted to the forthcoming Overview and Scrutiny Committee.

42. COMMENTARY ON THE PANEL NOTES

Councillor J H Whitehouse raised a concern regarding the 16 February Panel notes tabled at this meeting which, she felt, should have included reference to the conclusions of the Panel in regard to Councillor B Surtees' submitted views on minority references at planning committees. However, officers advised that the notes had been agreed at the start of this meeting without comment at which point Councillor J H Whitehouse had not been in attendance, therefore a Panel resolution could not be altered afterwards.

43. FUTURE MEETINGS

The next Panel meeting would be held on 17 March at 7.00p.m.

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**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF CONSTITUTION AND MEMBERS SERVICES SCRUTINY
PANEL
HELD ON TUESDAY, 17 MARCH 2015
IN COMMITTEE ROOM 1
AT 7.00 - 9.35 PM**

Members Present: Mrs M Sartin (Chairman), A Watts (Vice-Chairman), J Lea, Mrs M McEwen, Mrs C P Pond, C C Pond, D Stallan, Mrs J H Whitehouse and G Waller

Other members present:

Apologies for Absence: J Philip and S Weston

Officers Present S G Hill (Assistant Director (Governance & Performance Management)), S Tautz (Democratic Services Manager) and M Jenkins (Democratic Services Assistant)

44. MEETING RECONVENED

Following the adjournment of the meeting held on the 3 March 2015 at 9.32p.m., the meeting reconvened on the 17 March 2015 at 7.00p.m.

45. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

It was noted that councillor C C Pond was substituting for Councillor S Weston.

46. DECLARATION OF INTERESTS

There were no declarations of interest made pursuant to the Member's Code of Conduct.

47. TERMS OF REFERENCE / WORK PROGRAMME

The Panel's Terms of Reference and Work Programme were noted.

48. CONSTITUTION REVIEW - COUNCIL PROCEDURAL RULES

The Panel received a report regarding the Constitution Review – Council Procedural Rules from the Assistant Director (Governance and Performance Management) and undertook their review following the adjourned meeting on 3 March at Item 13 Motions – On Notice.

The Panel progressed through to Item 26 Application to the Executive, Committees and Sub-Committees and completed the subsequent sections concerning Substitute Members, Political Group Representatives, Minority References, Reports and Petitions.

In addition the Panel requested a further report in respect of the rules regarding 17.4 and 17.5 concerning Recorded Votes. This concerned the recent amendments to the

law which stipulated that all votes were recorded in respect of agreeing Council budgets.

RECOMMENDED:

- (1) That the Constitution Review – Council Procedural Rules be recommended to the Council; and
- (2) That a report be submitted to the Panel regarding rules 17.4 and 17.5 that concern the making of recorded votes in respect of Council budgets.

49. REPORTS TO BE MADE TO THE NEXT MEETING OF THE OVERVIEW AND SCRUTINY COMMITTEE

There were no reports forthcoming from this meeting to the Overview and Scrutiny Committee.

50. FUTURE MEETINGS

This was the last meeting of the Panel in its current guise as a scrutiny panel. From May 2015 it would become the Constitution Working Group reporting directly to the Council. The Chairman thanked members of the Panel and officers for their work and support during the Panel's existence. Councillor D Stallan echoed these sentiments, particularly as he had served a year as Panel Chairman.

It was advised that the first scheduled meeting date of the Working Group was 30 June 2015, which it was felt, was too wide a gap in time for effective continuity in carrying on the work of amending the Constitution. It was agreed to arrange an earlier meeting date in late May or June 2015.



Report to the Constitution Working Group

Date of meeting: 30 June 2015

Subject: Constitution Review –
Position Statement and Programme.

Officer Contact for further Information: Simon Hill (01992 56 4249)

Democratic Services Officer: Mark Jenkins (01992 56 4607)

Recommendations:

- (1) To receive a progress report on the current review of the constitution;**
- (2) To agree a work programme for reviewing the various elements yet to be considered with a view to completion by March 2016;**
- (3) To discuss further areas that members may wish to review individually;**

Report:

1. (Assistant Director Governance and Performance Management) The recent Scrutiny Review has resulted in the formation of this Working Group. Its Terms of reference were approved by Council in April 2015 and are as follows:
 - (1) To complete a review of the Council's Constitution by 31 March 2016 and to recommend new arrangements accordingly;thereafter:
 - (2) To review any aspect of the authority's constitutional arrangements as requested by the Council;
 - (3) To undertake general reviews of specific elements of the Constitution in order to ensure that the authority's constitutional arrangements complement current legislative requirements and decisions made by the Council; and
 - (4) To consider any proposals of the Director of Governance for necessary revision to any element of the Constitution.
2. The Working Group reports directly to the Council in connection with its Terms of Reference and the achievement of its work programme. The previous requirement to report through Overview and Scrutiny no longer exists.
3. Officers have looked at the scheduled dates of meetings during 2015-16 and have drafted a work programme that seeks to sketch out a proposal that allows for consideration of the remaining elements including the need for external review, consultation and approval by Council.

4. As a reminder work to undertake the review falls into the following categories:
- (i) Areas where no review is necessary (where reviews have been recently undertaken or where members decide no further work is necessary);
 - (ii) Areas that require a simple review of the wording;
 - (iii) Areas that require rationalisation of either wording or where they sit within the document;
 - (iv) Areas where change is required or desired;
 - (v) Areas where there has been request to review individually; and
 - (vi) Areas that could otherwise be published.

Progress during 2014/15

5. The Constitution and Members Services Panel have made some significant inroads into the programme. The following have already been looked at during the last year:
- (i) Articles of the Constitution – Officers are currently rewriting these to reflect discussions and one has been agreed by Council, namely Article 10 relating to Development Control including the speaking and arrangements at planning committees.
 - (ii) Council procedure rules – work has been undertaken here to reflect the views of the Panel. A further short review will be needed to finalise the rules once these have been teased out of other sections of the constitution.
 - (iii) Use of the Chairman's Casting vote – This has led to changes in the articles and the rules sections
 - (iv) Minority references – this has led to clarifications as to the timing of the use of such a procedure.
 - (v) The Terms of Reference of the JCC – these have been agreed by Council.
 - (vi) Review of the operation of the Complaints Panel – This has been deleted from the Constitution following review.
6. The draft work programme is attached for comments.

CONSTITUTION WORKING GROUP

TERMS OF REFERENCE

Title: Constitution Working Group

Status: Working Group

Terms of Reference:

(1) To complete a review of the Council's Constitution by 31 March 2016 and to recommend new arrangements accordingly;

thereafter:

(2) To review any aspect of the authority's constitutional arrangements as requested by the Council;

(3) To undertake general reviews of specific elements of the Constitution in order to ensure that the authority's constitutional arrangements complement current legislative requirements and decisions made by the Council; and

(4) To consider any proposals of the Director of Governance for necessary revision to any element of the Constitution.

Reporting:

The Working Group shall report directly to the Council in connection with its Terms of Reference and the achievement of its work programme.

Chairman: Councillor M McEwen

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Constitution Working Group (Chairman – Cllr M McEwen)		
Item	Dates	Progresss
(1) Position statement and programme (S Hill)	30 June 2015	
(2) Officer Employment Procedure Rules(P Maginnis)	30 June 2015	
(3) Contract Standing Orders – Review Process (A Hall)	30 June 2015	
(4) Executive Procedure Rules and Revised Articles (S Hill)	30 June 2015	
(5) Overview and Scrutiny Article Revisions (S Tautz)	22 September 2015	
(6) How to deal with Codes and Protocols (S Hill)	22 September 2015	
(7) Other Procedure Rules (S Hill)	22 September 2015	
(8) Schedule of Delegation – Revision (S Hill)	24 November 2015	
(9) Proposals for External Review (S Hill)	24 November 2015	
(10) Proposals to be agreed for consideration to Members (S Hill)	26 January 2016	
(11) Agree CSO revisions (A Hall)	26 January 2016	
(12) Recommend final articles (S Hill)	22 March 2016	Recommendation to Council

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Report to Constitution Working Group

Date of meeting: 30 June 2015

Portfolio: Technology and Support Services

Subject: Disciplinary Arrangements for Relevant Officers

Officer contact for further information: Paula Maginnis (01992564536)

Committee Secretary: Mark Jenkins (01992564607)



**Epping Forest
District Council**

Recommendations/Decisions Required:

- (1) That the Council be recommended to adopt the proposed amended Officer Employment Procedure Rules, subject to any comments or amendments.

Report:

Background

1. There have been changes to the statutory disciplinary and dismissal procedures applying to heads of paid service, monitoring officers and chief financial officers (the 'relevant officers'), whereby a new process has replaced the current statutory Designated Independent Person (DIP) process.
2. The legislation requires the Council to have amended its standing orders at or before the authority's first ordinary meeting falling after this year's annual meeting. The first Council meeting will be held on 28 July 2015.

Designated Independent Person Process (DIP)

3. The Designated Independent Person (DIP) statutory procedures set out in the Local Authorities (Standing Orders) (England) Regulations 2001 required that no disciplinary action in respect of a protected officer could take place other than in accordance with a recommendation in a report made by a Designated Independent Person (DIP). This process has been amended

The New Process

4. The new process is set out in the schedule to the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 which amend the 2001 Regulations. As well as removing the statutory require for a DIP in order to take disciplinary action generally the regulations include new rules in respect of dismissal.
5. The key elements of the new process are that
 - (i) The dismissal of a relevant officer must be approved by way of a vote at a meeting of the authority, who instead of only being able to take action in accordance with DIP recommendations, will be able to dismiss provided they take into account:
 - any advice, views or recommendations of a panel (the Panel),

- the conclusions of any investigation into the proposed dismissal; and
 - any representations from the protected officer concerned.
- (ii) The process set out above for the authority itself to approve dismissal has been extended to cover the chief finance officer and monitoring officer.
- (iii) It will not apply to disciplinary action short of dismissal
- (iv) The Council is required to set up a Panel and appoint two relevant independent persons to this Panel

The Panel: Constitution and Formation

6. The Panel must include at least two independent persons, who are defined in the Regulations as a person appointed under section 28(7) of the Localism Act 2011. Section 28 deals with the member code of conduct regime, the Council has appointed persons under that section. However, these independent persons will need to be invited onto the Panel, which they may refuse. The Council could appoint other suitably experienced/qualified independent persons for the Panel or use an independent person appointed by another authority.

7. The normal proportionality rules apply to such committees, meaning that subject to any waiver, in addition to the two or more 'neutral' independent persons, the Panel would be subject to the Council's pro rata rules.

8. The Local Government Association (LGA) are clarifying with the DCLG whether it would be possible for the Panel to be made up of independent persons only. To date no further advice has been published.

The Executive Objections Procedure

9. This remains as the current section 11 of the Officer Employment Procedure Rules whereby the notice of dismissal must not be issued until the dismissor "discharging the function of dismissal" has notified the "proper officer" (as defined by the authority) of the name of the person the dismissor wishes to dismiss, along with relevant particulars.

10. Members of the executive then have a chance to object through the elected executive leader. If there are no objections or the dismissor is satisfied that any objection is not material or well founded, then the dismissal can proceed.

Further Guidance

11. Unfortunately the new Regulations provide little detail of how the new process will operate in practice and there are a number of gaps within the legislation regarding the composition of the Panel, ensuring a fair investigation, contractual issues and appeal rights for relevant officers.

12. Therefore the Constitution has been amended in accordance with Schedule 3 of the 2015 Regulations. Once further advice is available from the LGA a Guidance Note will be submitted to the Constitution Working Group for consideration.

13. The amendments to the Constitution are in italics and bold.

Reason for decision:

There have been changes to the statutory disciplinary and dismissal procedures applying to heads of paid service, monitoring officers and chief financial officers (the 'relevant officers'), whereby a new process has replaced the current statutory Designated Independent Person process. The Council is required to amend the Constitution to implement the new Regulations at the Council meeting of 28 July 2015.

Officers will provide further guidance once gaps in the legislation has been clarified by the LGA.

Options considered and rejected:

Not to apply the Regulations. This would mean that the Council has not complied with its responsibilities under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

Consultation undertaken:

None

Resource implications:

There are no resource implications.

Due Regard Record:

This page shows **which groups of people are affected** by the subject of this report. It sets out **how they are affected** and how any **unlawful discrimination** they experience can be eliminated. It also includes information about how **access to the service(s)** subject to this report can be improved for the different groups of people; and how they can be assisted to **understand each other better** as a result of the subject of this report.

S149 Equality Act 2010 requires that due regard must be paid to this information when considering the subject of this report.

The Council is amending the Constitution in accordance with new Regulations and no equality implications have been identified.

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OFFICER EMPLOYMENT PROCEDURE RULES

CONTENTS

Rule

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2. Responsibility for Appointment, Dismissal and Disciplinary Action
3. Recruitment and Appointment – General Requirements
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6. Appointment of other Chief Officers
7. Appointment of Assistants to Political Groups
8. Objection by the Executive – Appointment of Chief Officers
9. Disciplinary Action
10. Disciplinary Panels
11. Objection by the Executive – Dismissal of a Chief Officer
12. Redundancy Procedures

Appendix

- 1 Operational Standing Orders – Staff

OFFICER EMPLOYMENT PROCEDURE RULES

A. DEFINITIONS AND RESPONSIBILITIES

1. Definitions

In these rules:

- (a) "the 1989 Act" means the Local Government and Housing Act 1989;
- (b) "the 2000 Act" means the local Government Act 2000;
- (c) **"the 2011 Act" means the Localism Act 2011(b);**
- (d) **"chief financial officer", "disciplinary action", "head of the authority's paid service" and "monitoring officer"** have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;
- (e) "Chief Executive" means the most senior officer of the Council in terms of managerial status and may include any person designated as Head of Paid Service pursuant to s4 of the Local Government and Housing Act 1989 and Deputy Chief Executive shall be construed accordingly;
- (f) "Chief Financial Officer" means the individual who has responsibility for financial administration pursuant to and for the purposes of s151 of the Local Government Act 1972;
- (g) "Chief Officer" means
 - (i) ~~Chief Executive, Deputy Chief Executive, Director of Corporate Support Services, Director of Finance and ICT, Director of Housing, Director of Planning and Economic Development, Director of Environment and Street Scene, Assistant to the Chief Executive~~ **Director of Communities, Director of Governance, Director of Neighbourhoods, Director of Resources;**
 - (ii) Further for the purposes of these Rules alone the Chief Financial Officer and Monitoring Officer, Deputy Financial Officer and Deputy Monitoring Officer are included within the definition of Chief Officer;
 - (iii) Further this definition will also include any post which is subsequently created to these Rules and whose terms of appointment expressly state that these Rules will apply as if to a Chief Officer.
- (h) "Executive" and "Executive Leader" have the same meaning as in Part II of the 2000 Act;
- (i) "Member of Staff" means a person appointed to or holding a paid office or employment under the authority;
- (j) "Pro Rata Rules" mean the principles set out in s15 of the 1989 Act;
- (k) "Proper Officer" means an officer appointed by the authority for the purposes of the relevant provisions in these Rules;

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- (l) "The Rules" means the Officers Employment Rules;
- (m) *"independent person" means a person appointed under section 28(&) of the 2011 Act;*
- (n) *"local government elector" means a person registered as a local government elector in the register of electors in the authority's area in accordance with the Representation of the People Acts;*
- (o) *"the Panel" means a committee appointed by the authority under the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;*
- (p) *"relevant meeting" means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and*
- (q) *"relevant officer" means the chief finance officer, head of the authority's paid service or monitoring officer as the case maybe.*

2. Responsibility for Appointment, Dismissal and Disciplinary Action

- 2.1 Save as otherwise provided for by these Rules and subject to the exceptions in sub paragraphs 2.2 and 2.3 below, the function of appointment and dismissal of, and taking disciplinary action against, a Member of Staff of the authority must be discharged, on behalf of the authority, by the Chief Executive or by a Member of Staff nominated by him.
- 2.2 The exceptions referred to in sub paragraph 2.1 are as follows:
 - (a) the Chief Officers of the Council as defined above; and
 - (b) any person appointed in pursuance of Section 9 of the 1989 Act (assistants for political groups).
- 2.3 Nothing in paragraph 2.2 above shall prevent a person from serving as a member on any panel, committee or sub-committee established by the authority to consider an appeal by:
 - (a) another person against any decision relating to the appointment of that other person as a Member of Staff of the authority; or
 - (b) a Member of Staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that Member of Staff.

B. RECRUITMENT

3. Recruitment and Appointment – General Requirements

3.1 Declarations

- 3.1.1 The Council will draw up a statement requiring any candidate for appointment

as a Member of Staff to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or Member of Staff of the Council; or of the partner of such persons.

- 3.1.2 No candidate so related to a councillor or a Member of Staff will be appointed without the authority of the relevant Chief Officer of the service to which that candidate has applied or a Member of Staff nominated by him/her for this purpose.

3.2 Seeking Support for Appointment

- 3.2.1 The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council.
- 3.2.2 No councillor will seek support for any person for any appointment with the Council.
- 3.2.3 The Council will disqualify any applicant who directly or indirectly seeks the support of any Member of Staff for any appointment with the Council save where the applicant is an existing Member of Staff and seeks a reference from another Member of Staff in support of such application.
- 3.2.4 The content of Rule 3.2 shall be included in any recruitment information.

4. Recruitment of Chief Officers

- 4.1 Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing Members of Staff, the Council will:
- (a) Draw up a statement specifying (i) the duties of the Chief Officer role concerned; and (ii) any qualifications or qualities to be sought in the person to be appointed;
 - (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
 - (c) Make arrangements for a copy of the statement mentioned in Rule 4.1 (a) to be sent to any person on request.

5. Appointment of Chief Executive

- 5.1 The full Council will approve the appointment of the Chief Executive following the recommendation of such an appointment by a panel of seven councillors allocated between political groups in accordance with the Pro Rata Rules who will interview applicants for this position. Such a panel shall include at least one Executive member.
- 5.2 All councillors appointed to such a panel is required to have undertaken recruitment and selection training before taking part in interviews.
- 5.3 The appointment panel will not seek the approval of the full council for the proposed appointment until it has complied with the procedure at Rule 8 below.

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6. Appointment of other Chief Officers.

- 6.1 A panel of not less than seven councillors allocated between political groups in accordance with the Pro Rata Rules will interview and, where authorised following the procedure referred to in Rule 8, appoint to these positions. Such a panel shall include at least one Executive member.
- 6.2 All councillors appointed to such a panel are required to have undertaken recruitment and selection training before taking part in interviews.

7. Appointments of Assistants to Political Groups

- 7.1 Appointments of assistants to a political group shall be made in accordance with the wishes of that political group.

8. Objection by the Executive – Appointment of Chief Officers

- 8.1 In relation to any proposed appointment for any Chief Officer post an offer of appointment should not be made until the Proper Officer has been notified of the name of the person that is proposed is to be offered such position and any other particulars which are considered to be relevant to the appointment and the Proper Officer has notified every member of the Executive of the authority of:
- (a) the name of the person to whom it is proposed to make the offer;
 - (b) any other particulars relevant to the appointment which have been notified to the Proper Officer; and
 - (c) the period within which any objection to the making of the offer is to be made by the Executive Leader on behalf of the executive to the Proper Officer; and
- 8.2 Upon such notification having been made then the appointment will only be offered if:
- (a) the Executive Leader has, within the period specified above notified the appropriate appointment panel or individual that neither he nor any other member of the Executive has any objection to the making of the offer;
 - (b) the Proper Officer has notified the appropriate appointment panel, that no objection was received by him within that period from the Executive Leader; or
 - (c) the relevant appointment panel is satisfied that any objection received from the Executive Leader within that period is not material or is not well founded.

C. DISCIPLINARY ACTION

9. Disciplinary Action

9.1 Suspension

- 9.1.1 Any Chief Officer may be suspended whilst an investigation takes place into alleged misconduct.

- 9.1.2 The Chief Executive, in consultation with the Monitoring Officer and the Chief Financial Officer as appropriate, shall have delegated authority to suspend a Chief Officer where, in his/her opinion the presence at work of the Chief Officer concerned could compromise an investigation of any alleged misconduct, for a maximum period of 10 working days. Any decision to suspend any Chief Officer for a longer period shall be taken by a Panel of councillors comprising not less than seven Councillors allocated between political groups in accordance with the pro rata rules and convened within the 10 day period of the temporary suspension.
- 9.1.3 The Leader of the Council, in consultation with the Monitoring Officer and the Chief Financial Officer, shall have delegated authority to suspend the Chief Executive for a maximum period of 10 working days where, in his/her opinion the presence at work of the Chief Executive could compromise the investigation of any alleged misconduct. Any decision to suspend the Chief Executive for a period of more than 10 working days up to a maximum of 2 months shall be made by a Panel of not less than 7 Councillors allocated between political groups in accordance with pro rata rules.
- 9.1.4 Any assistant to a political group may be suspended by the leader of that political group.
- 9.1.5 Any suspension will be on full pay and for a period of not more than two months ~~save as provided for in 9.2.2 below~~ and shall be kept under constant review.

9.2 Independent Person

~~9.2.1 No Disciplinary Action other than the suspension referred to in paragraph 9.1 above may be taken in respect of the Chief Executive, the Monitoring Officer or the Chief Financial Officer except in accordance with a recommendation in a report made by a designated independent person within the meaning of Regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001.~~

~~9.2.2 Further, in respect of any period for which the Chief Executive, the Monitoring Officer or the Chief Financial Officer may be suspended, the independent person may terminate or extend any period of that suspension (including extending it beyond two months should it appear to that independent person as being necessary) and vary the terms of any suspension as he or she sees fit.~~

~~9.2.3 The independent person may inspect any documents or have questions answered by any Member of Staff of the Council in connection with such investigation.~~

9.2 Dismissal

9.2.1 A relevant officer may not be dismissed by an authority unless the procedure set out in paragraphs 9.2.1 (i) – (vi) is complied with.

- (i) The Council will invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two independent persons to the Panel.**

- (ii) ***“Relevant independent person” means any independent person who has been appointed by the Council or, where there are fewer than this, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.***
- (iii) ***Subject to 9.2.1 (iv) the Council must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance 9.2.1 (i) in accordance with the following priority order;-***
 - (a) a relevant independent person who has been appointed by the Council and who is a local government elector;***
 - (b) any other relevant independent person who has been appointed by the Council;***
 - (c) a relevant independent person who has been appointed by another authority or authorities.***
- (iv) ***The Council is not required to appoint more than two relevant independent persons in accordance with paragraph (iii) but could if it wished.***
- (v) ***The Council must appoint any Panel at least 20 working days before the relevant meeting.***
- (vi) ***Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular;***
 - (a) Any advice, views or recommendations of the Panel;***
 - (b) The conclusions of any investigation into the proposed dismissal; and***
 - (c) Any representations from the relevant officer.***

9.3 Councillors

- 9.3.1 Councillors will not be involved in the disciplinary action against any member of staff below Chief Officer level, ***(except relevant officers referred to in paragraph 1(q))*** except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time or as otherwise provided for by these Rules.
- 9.3.2 Other Councillors may participate in such proceedings where there is a right of appeal to members in respect of disciplinary action.

10. Disciplinary Panels

- 10.1 Disciplinary Action short of dismissal in respect of the Chief Executive, Monitoring Officer and Chief Financial Officer may be made by a panel ***Committee*** comprising not less than seven councillors allocated between political groups in accordance with the Pro Rata Rules and including at least one member of the Executive to consider the report on any disciplinary matters. ~~produced by the independent person referred to in~~

~~paragraph 9.2.1 above and must be in accordance with any recommendation made in that report.~~

10.2 The full Council ~~may~~ **will** approve the dismissal of the Chief Executive, Monitoring Officer and Chief Financial Officer following the recommendation of such a dismissal by the Panel **referred to in 9.2.1 and Committee referred to in 10.1** provided that

- (i) such dismissal is in accordance with any recommendation made in the report produced by the ~~independent person~~ Panel referred to in paragraph 9.2.1 above; and
- (ii) the procedure referred to in paragraph 11 below has been complied with.

10.3 Disciplinary Action, including dismissal, in respect of any individuals in the positions of Chief Officers, other than the Chief Executive, Monitoring Officer and Chief Financial Officer, may be taken by a panel of seven councillors allocated between political groups in accordance with the Pro Rata Rules including at least one member of the Executive and provided that the procedure referred to in paragraph 11 below has been complied with.

10.4 Disciplinary Action, including dismissal, in respect of any assistants to political groups, may be taken by a panel made up of not less than three councillors from that political group (unless there are less than three councillors affiliated to that party when the panel should be made up of all councillors affiliated to that party).

11. Objection by the Executive - Dismissal

11.1 In relation to any proposed dismissal of an individual in a Chief Officer post notice of dismissal should not be given until the Proper Officer has been notified of the name of the person that is proposed is to be dismissed and the reasons for the proposed dismissal and the Proper Officer has notified every member of the executive of the authority of:

- (a) the name of the person it is proposed to dismiss;
- (b) the reasons for the proposed dismissal;
- (c) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the Proper Officer.

11.2 No notice of dismissal or recommendation for dismissal as the case may be shall be given until either -

- (a) the Executive Leader has, within the period specified above notified the panel proposing to dismiss that neither he nor any other member of the Executive has any objection to the proposed dismissal;
- (b) the Proper Officer has notified the panel that no objection was received by him within that period from the Executive Leader; or
- (c) the relevant panel is satisfied that any objection received from the Executive Leader within that period is not material or is not well founded.

12. Redundancy Procedures

- 12.1 The Epping Forest District Council Redundancy and Redeployment Policy and Procedure does not apply to Chief Officers. However the principles referred to within that policy will be adhered to so far as is appropriate when considering a potential redundancy situation affecting any individuals who hold any of the above posts and whether to dismiss any such person. The Epping Forest District Council Policy for Redundancy and/or Early Retirement shall apply in full to Chief Officers.
- 12.2 A panel of members comprising not less than seven councillors allocated between political groups in accordance with Pro Rata Rules including at least one member of the Executive will consider whether any persons holding any post referred to in 12.1 above shall be made redundant when it appears there is a need to consider such matters ("the Redundancy Panel").
- 12.3 The Redundancy Panel will, in addition to any other steps that appear to them to be appropriate as referred to in the Redundancy and Redeployment Procedure, be responsible to ensure that:
- (a) any individuals that may be affected by any decisions relating to redundancy are informed at an early stage of the fact that they may so be affected and the reasons for this. Thereafter any such individuals should be kept informed of relevant information pertaining to the redundancy decision making process as it continues.
 - (b) individuals are meaningfully consulted during the redundancy process and, in particular, sufficient information is given to them such as to enable them to understand why such redundancies are being considered and an opportunity is given to those individuals to comment on such information and make alternative proposals with a view to avoiding redundancy.
 - (c) that consideration is given to whether any alternative positions may be available to the affected individuals.
- The Redundancy Panel shall ensure that notification is given to the Executive of any proposed decision to dismiss by reason of redundancy in accordance with paragraph 11 above. Such notification is to be made before the Redundancy Panel notifies the individual concerned that it is proposed to recommend to the Council to make that individual redundant in accordance with paragraph 12.5 below.
- 12.4 If the Redundancy Panel decides that a notice of redundancy should be issued to any individual then it should inform the individual concerned of its intention to recommend the Council to do so and inform that individual that they have a right to appeal and the Panel should set a reasonable period for the individual to make such an appeal.
- 12.5 If the individual does not appeal within the set timescale then the full Council will approve the dismissal of the individual concerned following the recommendation of the Redundancy Panel.
- 12.6 If the individual does appeal within the set timescale then a Redundancy Appeal Panel will be appointed which will consist of not less than seven councillors, drawn

from political groups in accordance with Pro Rata Rules and including at least one member of the Executive, who will hear and adjudicate upon the appeal.

- 12.7 If the appeal is dismissed then the full Council will approve the dismissal of the individual concerned following the recommendation of the Redundancy Appeal Panel.

Report to the Constitution Working Group



**Epping Forest
District Council**

Date of meeting: 30 June 2015

Subject: Review of Contract Standing Orders

Responsible Officer: Alan Hall, Director of Communities (01992 564004)

Democratic Services: Mark Jenkins (01992 564607)

Recommendations:

(1) That the following be noted:

(a) The formation of an officer Contract Standing Orders Working Party, chaired by the Director of Communities, to fundamentally review the Council's Contract Standing Orders and to formulate new ones that:

- **Adopt a more modern and flexible approach;**
- **Are simpler to understand and comply with;**
- **Are more responsive to the current and future procurement needs of the Council;**
- **Meet current EU Procurement Regulations; and**
- **Ensure appropriate controls and probity to safeguard the use of public money;**

(b) The Terms of Reference of the Contract Standing Orders Working Party set by the Management Board; and

(c) The proposed reporting arrangements and timescales; and

(2) That consideration of the report and recommendations of the Working Party be added to the Constitution Working Group's Work Programme for 2015/16.

1. The (officer) Corporate Governance Group, chaired by the Chief Executive, has previously considered the difficulty that many staff procuring contracts for the Council have in following and complying with Contract Standing Orders - which were originally produced many years ago in a different local government and public procurement environment, and have since been amended and extended in an ad-hoc way on many occasions – and concluded that they needed to be fundamentally reviewed and new Contract Standing Orders formulated that:

- **Adopt a more modern and flexible approach;**
- **Are simpler to understand and therefore to comply with;**
- **Are more responsive to the current and future procurement needs of the Council;**
- **Meet current EU Procurement Regulations;**
- **Ensure appropriate controls and probity to safeguard the use of public money; and**
- **Could form part of the new Constitution being developed by the Constitution Working Group on behalf of the Council**

2. Accordingly, the Council's Management Board has determined that a new officer working group should be established, chaired by the Director of Communities, to fundamentally review the Council's Contract Standing Orders and to formulate new ones for consideration by the Constitution Working Party and recommend to the Council, as part of the comprehensive review of the whole of the Council's Constitution.

3. The Management Board has agreed the Terms of Reference for the new Working Group, which are attached for information.

4. It is intended that the Working Party will report on the proposed new Contract Standing Orders to the Constitution Working Group in time for them to be approved with the rest of the revised Constitution by March 2016. It is therefore suggested that consideration of the report and recommendations of the Working Party be added to the Constitution Working Group's Work Programme for 2015/16.

Epping Forest District Council

Contract Standing Orders Working Party

TERMS OF REFERENCE

(Approved by Management Board on 3rd June 2015)

Purpose

To fundamentally review the Council's Contract Standing Orders and to formulate new ones - that adopt a more modern and flexible approach, are simpler to understand and comply with, are more responsive to the current and future procurement needs of the Council and that meet current EU Procurement Regulations, whilst ensuring appropriate controls and probity to safeguard the use of public money.

Terms of Reference

- 1) To review and consider the current Contract Standing Orders and identify areas of improvement, in accordance with the Working Party's Purpose.
- 2) To understand the implications that EU Procurement Regulations, and particularly the recent changes, have on procurement by the Council and its Contract Standing Orders.
- 3) To formulate new draft Contract Standing Orders that achieve the Working Party's Purpose.
- 4) To report regularly to Management Board on the Working Party's progress and to present new draft Contract Standing Orders to Management Board, prior to submission to members.
- 5) To present the new draft Contract Standing Orders to the Constitution Working Group for consideration and to oversee their onward progression to Full Council.
- 6) To disseminate information and arrange appropriate training on the new Contract Standing Orders to all staff involved with procurement activities.

Chairman

The Working Party will be chaired by the Director of Communities.

In his absence, the meeting will be chaired by a member of the Working Group nominated by the Chairman or the members present.

Membership

Chairman	- Alan Hall
Dem. Services (Constitution)	- Simon Hill
Procurement	- Shane McNamara
Internal Audit	- Sarah Marsh
Legal Services	- Alison Mitchell
Communities (Client)	- Paul Pledger
Facilities Management (Client)	- Mike Hobbs
Neighbourhoods (Client)	- Jim Nolan (initially) / Business Manager (subsequently)

Officer Support / Secretariat

Mark Jenkins – Democratic Services.

Other Attendances

The Working Party can invite other officers to attend meetings as appropriate. Working Party Members may arrange for substitutes to attend in their absence

Frequency of Meetings

Meetings will be held as required – but at least monthly

Target Date for Adoption of New Contract Standing Orders by Full Council

March 2016



Report to the Constitution Working Group

Date of meeting: 30 June 2015

Subject: Executive Procedure Rules and
Revised Article 7.

Officer Contact for further Information: Simon Hill (01992 56 4249)

Democratic Services Officer: Mark Jenkins (01992 56 4607)

Recommendations:

- (1) To consider a revised Article 7; and**
- (2) To consider how the Executive Procedure Rules can be integrated into the rest of the constitution.**

Report:

- 1. (Assistant Director Governance and Performance Management) Attached is a revised Article 7 for consideration by the Working Group. Members have previously briefly discussed this Article.
- 2. The operation of the Executive is governed by two sections of the Constitution, Article 7 and the Executive Procedure Rules. The Panel has previously decided that where Rules apply generally, that they should be taken into the main rules section. Therefore in the redrafting of that rules section officers have attempted to take sections into the rules. Some of what is reproduced in the Executive Procedure Rules has been inserted into the new Article 7 which is attached.
- 3. What needs to be decided is what members want to do with the remaining elements of the Executive Rules. In dealing with the Development Control Article, members reviewed the necessity of the wording. It is suggested that members follow this process again here.
- 4. Members are reminded of the need to bring their copies of the Constitution with them to the meeting.

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ARTICLE 7 - THE EXECUTIVE

7.01 Role and Responsibilities

The Executive will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution and the local choice functions set out in Part 3 of this constitution.

Where the Leader or the Executive are responsible for an Executive Function they may delegate that function pursuant to section 15 of the Local Government Act 2000 as set out in Part 3 of this constitution which sets out which individual members of the Executive, committees of the Executive, officers or joint arrangements are responsible for the exercise of particular Executive functions

7.02 Form and Composition

The Executive will consist of between three and 10 Councillors and will include the Leader of the Council appointed by the Council. The other members of the Executive will be appointed by the Leader of the Council including a Deputy Leader.

7.03 Leader

The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:

- (a) he/she resigns from the office or as a Councillor; or
- (b) he/she is disqualified from being a Councillor; or
- (c) the next Annual Council meeting after completing his/her term of office as a Councillor or until such other date as the Council may specify; and
- (d) he/she is removed from office by resolution of the Council.
- (e) if removed from office by virtue of any regulations made pursuant to the Local Government Act 2000 or the Localism Act 2011

NB: The person who is elected as Leader of the Council remains a member of the Council during the period that he or she is appointed as Leader of Council, except where the person ceases to be Councillor by virtue of resignation or disqualification.

7.04 Deputy Leader

The Leader will appoint a Deputy Leader of the Council from among those Councillors appointed to the Executive. The person appointed as Deputy Leader shall, unless they resign as Deputy Leader, hold office until the end of any term of office of the Leader of the Council specified by the Council.

The Deputy Leader may be removed from office by the Leader of the Council if the latter thinks fit and the Leader must then appoint another person to be Deputy Leader.

7.05 Deputy Leader – Powers to Act

If, for any reason, the Leader of Council is unable to act or that office is vacant, the Deputy Leader must act in the Leader of Council's place.

7.06 Leader and Deputy Leader – Unable to Act

If, for any reason, the Leader of the Council is unable to act or the office of Leader is vacant and the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the Executive must act in the Leader's place or must arrange for a member of the Executive to act in the Leader's place until such time that the Council appoints a new Leader of Council.

7.07 Other Executive Members

Other executive members shall hold office until:

- (a) they resign from office or as a Councillor; or
- (b) they are disqualified as Councillors;
- (c) the next Annual Council meeting but may be re-appointed the Leader of the Council for further terms of office; and
- (d) they are removed from office, either individually or collectively, by the Leader of the Council.

7.08 Portfolio Holder Assistants

The Leader of the Council shall also, at his or her discretion, appoint Portfolio Holder Assistants on an annual basis in accordance with the Executive Procedure Rules contained in the Constitution.

7.09 Proceedings of the Executive

Proceedings of the executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

Any function which is the responsibility of the Executive may not be discharged by the Council.

The Cabinet is responsible for determining the content of the plans and strategies not requiring the assent of the Full Council.

The Cabinet is responsible for proposing to Council the adoption of plans and strategies reserved to the Council by statute or this Constitution.

7.11 Portfolio Holder Advisory Groups

... For the purposes of carrying out any Executive function any member of the Executive may convene a Portfolio Holder Advisory Group. Details of the arrangements for such groups are set out in the Appendix 1 to this Article.

7.12 Executive Committees

The Cabinet may, from time to time, appoint Committees comprising solely members of the Cabinet to assist in the carrying out of the terms of reference. These shall be

reviewed annually and re-appointed as appropriate. Details of current Cabinet Committees and their Terms of Reference are set out in Appendix 2 to this Article

7.13 Assistant Portfolio Holders

The Leader of the Council may appoint Assistant Portfolio Holders who shall –

- (a) assist the designated Cabinet Member in shaping and developing the strategic priorities of the Council as it relates to the allocated portfolio.
- (b) assist the designated Cabinet Member in monitoring performance in specified areas relating to the allocated portfolio.
- (c) where appropriate and where permissible under the Council's Constitution, represent the designated Cabinet Member at meetings or visits.

Such appointments shall be at the discretion of the Leader and shall be notified to Council at its Annual Meeting. The term of office of any Assistant Portfolio Holders shall be for one year from the Annual Council meeting concerned but may be varied by the Leader at any time.

Assistant Portfolio Holders shall not be members of the Cabinet, or any Cabinet Committee and may not exercise any executive powers. Assistant Portfolio Holders may be invited to speak at Cabinet or Cabinet Committee meetings on matters where they assisted Cabinet members but may not vote.

PORTFOLIO HOLDER ADVISORY GROUPS

1. Purpose of Portfolio Holder Advisory Groups

Portfolio Holder Advisory Groups may be established for the purpose of advising members of the Executive on executive functions.

- (a) It shall be competent for a member of the Executive, whether acting on a personal basis under the terms of the scheme of delegation approved by the Cabinet or in any other connection, to establish such advisory groups.
- (b) Such groups may comprise members of the Executive, other members of the Council, representatives of other organisations, officers of this or other Councils or individual members of the community;
- (c) Each political group represented on the Council shall be invited to submit a representative to serve on any such group;
- (d) Advisory Groups may be established to carry out the following tasks:
 - (i) to advise a member of the Cabinet on the exercise of executive functions, including decision-making;
 - (ii) to act as a means of consultation on executive functions between the Cabinet member and the Council and the local community; and
 - (iii) to assist the Executive in developing or reviewing services or policy.

2. Limitations on the Operation of Advisory Groups

- (a) Advisory Groups shall be advisory only and may not exercise any decision-making powers, these being vested in the Executive in accordance with the Constitution;
- (b) The Executive will, through the appropriate member of the Cabinet, ensure that the Overview and Scrutiny Committee are advised of the establishment of such a group and of the outcome of its discussions;
- (c) Advisory Groups shall be reviewed annually and disbanded once their allotted tasks are completed; and
- (d) The Executive will record the advice of the Advisory Group and indicate its response to views expressed in the recording of its decisions.

APPENDIX 2

COMMITTEES OF THE EXECUTIVE - TERMS OF REFERENCE

1. FINANCE AND PERFORMANCE MANAGEMENT

- 1.1 To advise and make recommendations to the Cabinet on the annual budget for Council services, the Capital Programme and the setting of the Council tax.
- 1.2 To monitor expenditure by the Cabinet and other Committees within the framework of the Council's budgetary policy and financial objectives and to keep the Cabinet informed of the Council's overall position.
- 1.3 To consider the financial management aspects of the annual Statutory Statement of Accounts, in particular, any significant variations from the Council's budget for the year in question and the medium term financial strategy.
- 1.4 To receive final draft reports from External Audit (including the Audit Management letter and the External Audit Plan) from time to time received by the Council and to make recommendations thereon to the Cabinet.
- 1.5 To consider the work programme of Internal Audit and to make recommendations thereon to the Audit and Governance Committee.
- 1.6 To advise and make recommendations to the Cabinet on risk management and insurance issues.
- 1.7 To be responsible for corporate performance management and the preparation of any plans related to this function.
- 1.8 This Committee comprises no less than 5 Cabinet members and is chaired by the Portfolio Holder for Finance and Economic Development. A Vice-Chairman may also be appointed by the Council from members of the Cabinet.

**2. NORTH WEALD AIRFIELD AND ASSETS MANAGEMENT CABINET COMMITTEE
NEW TERMS OF REFERENCE**

- 2.1 To monitor and submit recommendations to the Cabinet as appropriate on:
 - (a) Strategic land use issues relating to the future development of the Airfield
 - (b) Strategic matters relating to the business, recreational and other activities conducted there
 - (c) Proposals for redevelopment of the Airfield or its disposal
- 2.2 The Committee's terms of reference shall not extend to decision-making on existing Council activities on the site which shall remain the prerogative of the relevant Portfolio Holders within the Cabinet or the Cabinet itself.

- 2.3 The Committee is chaired by the Portfolio Holder for Finance and Economic Development and a Vice-Chairman will be appointed by the Council from members of the Cabinet.
- 2.4 To consider and make recommendations to the Cabinet, on proposals brought forward by the officers' Asset Management Co-ordinating Group in respect of Council-owned property assets which are suitable for disposal, redevelopment or rationalisation in order to secure a financial return to the Council or an improvement in service provision and
- 2.5 In carrying out its responsibilities under 2.4 above, the Cabinet Committee shall have regard:
- (i) to the impact of the LDF Spatial Strategy as it develops;
 - (ii) to the opportunities for disposing of property where it is in the best interest of the District for these to be transferred to more appropriate ownership or disposed of by leasehold in order to secure a financial return to the Council;
 - (iii) to the suitability of sites for transfer to registered social landlords;
 - (iv) to partnership schemes which would either assist in the delivery of infrastructure projects or unlock the potential of property holdings of partner bodies.

3. LOCAL PLAN CABINET COMMITTEE – TERMS OF REFERENCE

- 3.1 To oversee and submit recommendations to the Cabinet as appropriate on:
- (a) agreement of documentation for consultation on the draft plan/preferred option and documentation to seek pre-submission representations on the proposed Local Plan;
 - (b) the final form of the Council's Local Plan (i.e. the version to be submitted to the Planning Inspectorate for Examination in Public); and
 - (c) responses that should be made to any representations received following consultation on the Local Plan and related documents and supplementary planning documents.
- 3.2 To be responsible for all aspects (except those matters specified in 3.1 above) including but not restricted to:
- (a) monitoring of the achievement of milestones within the Local Plan and Community Infrastructure Levy preparation and review process;
 - (b) agreement of engagement strategies for consultation periods as necessary;
 - (c) agreement of documentation for consultation on the Issues and Options; and
 - (d) agreement of draft options and policy wording to be used as the basis for Sustainability Appraisal.
- 3.3 To note, receive and, if necessary, agree officer reports on consultants' studies which contribute to the establishment of an up-to-date evidence base to influence preparation of the Local Plan.

3.4 To agree options for joint or co-ordinated working with neighbouring Councils, which comply with the Council's duty to co-operate and which best meet the needs of this District.

3.5 To respond to the Planning Services Standing Scrutiny Standing Panel as appropriate.

3.6 To monitor within the budgetary provision for the Local Plan, as approved by the Cabinet and the Council.

3.7 The membership of the Committee will comprise of members of the Cabinet, the number to be determined by the Leader of the Council.

3.8 That the Committee will be chaired by the Portfolio Holder responsible for Planning matters.

N.B. (1) In the event that the Council's Cabinet is constituted according to the pro rata membership requirements of the Local Government and Housing Act 1989, any political group not having representation on the Committee by virtue of one of the named Cabinet portfolios shall nominate one member of the Cabinet to serve on this Committee.

(2) In the event that seats on the Cabinet are allocated by the Leader of Council solely to one political group, or to an alliance of one or more groups forming an administration, seats on the Sub Committee shall only be allocated to members of that group or alliance who have seats on the Cabinet.

4. HOUSEBUILDING

(a) To consider and recommend to the Cabinet the Development Strategy for the Council's Housebuilding Programme on an annual basis;

(b) To consider and sign-off development appraisals and financial appraisals produced by the Council's appointed Development Agent for sites previously identified by the Cabinet as having development potential and that could be included within the Council's Housebuilding Programme;

(c) To approve the submission of detailed planning applications, and/or if more appropriate outline planning applications, by the Council's appointed Development Agent for sites that the Cabinet Committee considers are suitable for development and viable, having regard to the development appraisals and financial appraisals for the sites;

(d) To invite ward members to attend meetings of the Cabinet Committee when potential development sites in their ward are under consideration, and to provide an opportunity for ward members to provide comments on proposed developments, before development appraisals and financial appraisals are signed-off and approvals to submit planning applications are given;

(e) To approve the subsequent development of sites considered suitable for development and viable that receive planning permission, subject to the acceptance of a satisfactory tender for the construction works;

(f) To approve, and include within financial appraisals, the use of the following sources of funding for the development of individual sites within the Council's Housebuilding Programme:

(i) the agreed Housing Capital Programme Budget for the Housebuilding Programme;

- (ii) capital receipts made available through the Council's Agreement with the Department of Communities and Local Government allowing the use of receipts from additional Right to Buy (RTB) sales as a result of the Government's increase in the maximum RTB Discount to be spent on housebuilding;
- (iii) financial contributions received from developers for the provision of affordable housing within the District, in lieu of on-site affordable housing provision, in compliance with Section 106 Planning Agreements; and
- (iv) grant funding received from the Homes and Communities Agency;
- (g) To approve the submission of the Council's Pre-Qualification Questionnaire to the Homes and Communities Agency (HCA), applying for Investment Partner status with the HCA;
- (h) To consider and accept tenders received for the construction works on sites included within the Council Housebuilding Programme;
- (i) To determine whether, in addition to the potential development sites already considered by the Cabinet, sites with development potential within the following categories should be added to either the Housebuilding Programme's Primary List or Reserve List and detailed development appraisals and financial appraisals undertaken by the Council's Development Agent:
 - (i) other specific garage sites comprising 6 or less garages;
 - (ii) specific garage sites where garage vacancies arise with no waiting list of applicants; and
 - (iii) specific areas of Council-owned land on housing sites considered to be surplus to requirements;
- (j) To determine whether sites on the Reserve List of potential development sites previously agreed by the Cabinet should be promoted to the Primary List, and detailed development appraisals and financial appraisals undertaken by the Council's Development Agent, due to:
 - (i) there being insufficient numbers of properties that can be viably developed from the Primary List of potential development sites to deliver a Housebuilding Programme of 120 new homes over a six-year period; and/or
 - (ii) the Cabinet subsequently deciding to increase the size of the Housebuilding Programme and there being insufficient numbers of properties that can be viably developed to deliver a larger Programme;
- (k) to monitor and report to the Cabinet on an annual basis:
 - (i) progress with the Council Housebuilding Programme; and
 - (ii) expenditure on the Housing Capital Programme Budget for the Council Housebuilding Programme, ensuring the use (within the required deadlines) of the capital receipts made available through the Council's Agreement with the Department of Communities and Local Government allowing the use of receipts from additional

Right to Buy (RTB) sales as a result of the Government's increase in the maximum RTB Discount to be spent on housebuilding.

4.3 The Committee will comprise the Portfolio Holders determined by the Leader

4.4 The Cabinet Committee will meet as and when required, as determined by the Housing Portfolio Holder in consultation with other Committee members.

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EXECUTIVE PROCEDURE RULES

CONTENTS

Rule

1. How does the Executive Operate?
2. How are Executive Meetings Conducted?
3. Reports of Cabinet Members
4. Annual Reports and Work Programmes
5. Deputy Portfolio Holders
6. Requests by the Public/Outside Organisations to address the Cabinet
7. Action in Designated Emergencies

Appendices:

- 1 – Cabinet Quorum
- 2 – Action in Designated Emergencies

EXECUTIVE PROCEDURE RULES

1. How Does the Executive Operate?

1.1 Who may make Executive Decisions?

The arrangements for the discharge of executive functions may be set out in the executive arrangements adopted by the Council. If they are not set out there, then the leader may decide how they are to be exercised. In either case, the arrangements or the leader may provide for executive functions to be discharged by:

- (i) the executive as a whole;
- (ii) a committee of the executive;
- (iii) an individual member of the executive;
- (iv) an officer;
- (iv) an area committee;
- (vi) joint arrangements; or
- (vi) another local authority.

1.2 Delegation by the Leader

At the Annual Meeting of the Council, the Leader will present to the Council a written record of additional delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the leader will contain the following information about executive functions in relation to the coming year:

- (i) the extent of any authority delegated to executive members individually, including details of the limitation on their authority;
- (ii) the terms of reference and constitution of such executive committees as the leader appoints and the names of executive members appointed to them;
- (iii) the nature and extent of any delegation of executive functions to area committees, any other authority or any joint arrangements and the names of those executive members appointed to any joint committee for the coming year; and
- (iv) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

1.3 Sub-Delegation of Executive Functions

- (a) Where the executive, a committee of the executive or an individual member of the executive is responsible for an executive function, they may delegate further to an area committee, joint arrangements or an officer.

- (b) Unless the Council directs otherwise, if the leader delegates functions to the executive, then the executive may delegate further to a committee of the executive or to an officer.
- (c) Unless the leader directs otherwise, a committee of the executive to whom functions have been delegated by the leader may delegate further to an officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.4 The Council's Scheme of Delegation and Executive Functions

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) Delegation of executive functions is the responsibility of the Leader of the Council who shall report to the Annual Council meeting on delegation agreed. He/she may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the proper officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the executive as a whole. The Leader of the Council will present a report to the next ordinary meeting of the Council setting out the changes made.
- (c) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it on its chair.

1.5 Conflicts of Interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every member of the executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an executive function has been delegated to a committee of the executive, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

1.6 Executive Meetings - When and Where?

The Executive will meet at times to be agreed by the Leader. The executive shall meet at the Civic Offices, High Street, Epping, Essex CM16 4BZ or another location to be agreed by the Leader. Meetings will commence at 7.00 p.m.

1.7 Public or Private Meetings of the Executive?

All meetings of the Cabinet and Cabinet Committees shall be open to the public, press and all members of the Council, subject to the need to consider any exempt or confidential business in private session. Exempt or confidential business will be dealt with at the

conclusion of the public session, subject to the requirements of 1.6 above.

1.8 Quorum

The quorum for a meeting of the Cabinet, shall be 5 members of the executive. The quorum for a Cabinet Committee shall be three members. Appendix 1 to these rules sets out procedures for safeguarding the Cabinet quorum in exceptional circumstances.

1.9 How are Decisions to be taken by the Executive?

- (a) Executive decisions which have been delegated to the executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a committee of the executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the executive as a whole.
- (c) Where Executive decisions are delegated to individual members of the Executive, these decisions shall, in the unavoidable absence of that person, be exercised by the Executive itself.

2. HOW ARE EXECUTIVE MEETINGS CONDUCTED?

2.1 Who Presides?

If the Leader is present he/she will preside. In his/her absence, then the Deputy Leader will preside. In the event that both the Leader and Deputy Leader are absent, the Executive will appoint a person from among those present to preside at that meeting.

The member of the Executive appointed, as Chairman of any Executive Committee will preside at that meeting of that Committee at which he/she is present. If the appointed Chairman is absent, another member from those present shall preside for all or part of the meeting in question.

2.2 What Business?

At each meeting of the executive the following business will be conducted:

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the executive (whether by an overview and scrutiny committee or by the Council) for reconsideration by the executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (v) consideration of reports from overview and scrutiny committees;
- (vi) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution;

- (vii) budget reports; and
- (viii) reports from Executive Committees and individual members of the Executive.
- (ix) questions from members of the public in accordance with the Council's scheme provided that these are received at least 4 working days before the Cabinet meeting.

2.3 Consultation

All reports to the executive from any member of the executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.4 Who can put Items on the Executive Agenda?

- (a) The Leader will decide upon the schedule for the meetings of the executive. He/she may put on the agenda of any executive meeting any matter which he/she wishes, whether or not authority has been delegated to the executive, a committee of it or any member or officer in respect of that matter. The proper officer will comply with the leader's requests in this respect.
- (b) Any member of the Executive may require the Proper Officer to place an item on the agenda of the next available meeting of the executive for consideration. If he/she receives such a request the proper officer will comply.
- (c) There will be a standing item on the agenda for each meeting of the Cabinet for matters referred by the Overview and Scrutiny Committee and at each ordinary meeting of the Cabinet for public questions.
- (d) Any member of the Council may ask the Leader to put an item on the agenda of an executive meeting for consideration, and if the leader agrees the item will be considered at the next available meeting of the Executive. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual may be invited to attend the meeting, if, in the opinion of the Leader this would assist the Executive's consideration of that item. In the event that the Leader is unable to agree the request, the relevant member of the Council shall receive an explanation of that refusal.
- (e) The monitoring officer and/or the chief financial officer may include an item for consideration on the agenda of an executive meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

3. REPORTS OF CABINET MEMBERS

The following rules will apply to the reports submitted to any member of the Executive or the Cabinet, a Cabinet Committee or any other Executive body, namely:

- (a) all reports for Cabinet members will normally be drafted by officers but if drafted by a Cabinet member, they must be submitted at least 5 weeks in advance of the Cabinet meeting in order to allow the advice of officers to be included;
- (b) Cabinet members, once in possession of an officer's report, shall be able to amend reports in relation to minor wording changes or format provided that the factual, legal and financial basis is not compromised;
- (c) where Cabinet members wish to add or change recommendations or add options contained they must ensure that reasons are stated in the report;
- (d) at all times, reports requiring decisions in compliance with statute law or the Council's policy and budget framework, shall not be deferred by Portfolio Holders without the reason being recorded in writing;
- (e) it shall not be open to a Portfolio Holder to change a report submitted by a Chief Officer by omitting relevant facts or by altering the facts as expressed such that the report becomes unclear;
- (f) it shall be open to the Portfolio Holder and the Chief Officer to consult the Monitoring Officer and/or Chief Financial Officer under Article 12.03 or 12.04 of the Constitution on any points under (d) and (e) above on which there is no agreement; and
- (g) in the event that a Chief Officer and Cabinet member fail to agree on the submission of a report, it shall be referred to Monitoring Officer for a ruling on whether the report should proceed.

4. ANNUAL REPORTS AND WORK PROGRAMMES

- (a) The Executive shall submit to the Council at its annual meeting a work programme for the following Council year.
- (b) The Executive shall submit to the Council in April each year a report on its activities in the last Council year.

5. PORTFOLIO HOLDER ASSISTANTS

- 5.1 The Leader of the Council may appoint up to 10 Portfolio Holder Assistants who shall –
- (a) assist the designated Cabinet Member in shaping and developing the strategic priorities of the Council as it relates to the allocated portfolio.
 - (b) assist the designated Cabinet Member in monitoring performance in specified areas relating to the allocated portfolio.
 - (c) where appropriate and where permissible under the Council's Constitution, represent the designated Cabinet Member at meetings or visits.

- 5.2 Such appointments shall be at the discretion of the Leader and shall be notified to Council at its Annual Meeting. The term of office of any Portfolio Holder Assistants shall be for one year from the Annual Council meeting concerned but may be varied by the Leader at any time.
- 5.3 Portfolio Holder Assistants shall not be members of the Cabinet, or any Cabinet Committee and may not exercise any executive powers, which shall be reserved to Cabinet members either collectively or individually.
- 5.4 Portfolio Holder Assistants may, however, be invited to speak at Cabinet or Cabinet Committee meetings on matters where they assisted Cabinet members but may not vote.

6. REQUESTS BY THE PUBLIC/OUTSIDE ORGANISATIONS TO ADDRESS THE CABINET

- 6.1 Any member of the public or a representative of an outside organisation may address the Cabinet on any agenda item (except those dealt with in private session as exempt or confidential business) due to be considered at a meeting.
- 6.2 The following rules shall apply to such requests:
- (i) requests must relate to any existing agenda item;
 - (ii) requests must not raise new business for the meeting concerned;
 - (iii) all requests must be notified to the Council by 4 pm on the day of the meeting;
 - (iv) requests accompanied by proposals to circulate written material must be received three working days before the meeting in time to be sent to Cabinet members in advance of the meeting;
 - (v) requests need not be in writing;
 - (vi) a maximum of two persons shall be permitted to address the Cabinet on any one agenda item;
 - (vii) a time limit of 3 minutes per speaker shall apply;
 - (viii) the Cabinet shall be able to ask questions on any comments made;
 - (ix) the Leader of the Council shall have discretion as to whether to limit the number of persons wishing to address the Cabinet if it is considered that the number of such speakers will unduly delay the proper despatch of business at any meeting.
 - (x) this procedure shall not apply to Cabinet Committees.

7. ACTION IN DESIGNATED EMERGENCIES

- 7.1 The procedure governing action required to be taken in emergency situations is set out in Appendix 2 to these rules.

EXECUTIVE PROCEDURE RULES – APPENDIX TO RULE 1.8 (QUORUM)

1. In the event that, for any reason, the Proper Officer perceives that there will not be quorum as a result of Cabinet membership being depleted for any of the reasons set out below:
 - (a) leave of absence approved by the Council under Section 85 of the Local Government Act 1972;
 - (b) suspension or partial suspension as a result of an adjudication by the Standards Board for England or the Epping Forest District Standards Committee;
 - (c) resignation as a Councillor or as a Cabinet member;
 - (d) ceasing to be a Councillor as a result of an election, by retiring from office or becoming otherwise disqualified; and
 - (e) by death in office

the Leader of the Council (or the Deputy Leader if absent) will be informed as soon as possible after this becomes apparent.
2. The Proper Officer shall also place an item on the agenda for the next available Cabinet meeting to:
 - (a) report on the vacancies which have occurred or are likely to occur;
 - (b) seek decisions from the Cabinet on arrangements for covering the vacant portfolios to be recommended to the Council on:
 - (i) any portfolios which will be covered by other Cabinet members either on a temporary basis or for the remainder of the Council year concerned; or
 - (ii) the need to appoint new portfolio holders to those vacancies, the actual appointment being reserved to the Council.
3. The Cabinet shall have delegated authority to make temporary appointments under 2(b)(i) and (ii) above until such time that the Council can make formal appointments.
4. The Leader of the Council (or Deputy Leader if absent) shall have delegated authority to make temporary appointments under 2(b)(i) and (ii) above until the next available Cabinet meeting considers the matter, if it is considered, after consulting the proper officer, that there is an urgent need to secure a quorum.
5. **Exercise of Delegation by the Cabinet or the Leader of the Council**
 - 5.1 In the exercise of delegated authority under 3 and 4 above, the Cabinet or the Leader of the Council will:

- (a) if Cabinet seats are held by a single political group, allocate portfolios only to councillors from that group;
- (b) if Cabinet seats are allocated to an alliance of two or more parties forming a Council Administration, allocate vacant seats only to councillors from those groups and the Leader of the Council shall be required to consult the Leaders of those other groups in advance on the appointments being made;
- (c) if Cabinet seats are allocated between all political groups entitled to places under pro rata rules, fill vacancies on the nomination of the political group which held the vacant seat(s), unless all political groups agree on an alternative arrangement which achieves pro rata requirements.

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ACTION IN DESIGNATED EMERGENCIES

1. PURPOSE OF APPENDIX

- 1.1 To provide procedures which safeguard decision-making arrangements in emergency situations affecting the District which fall beyond the scope of the Council's Emergency Response Plan.
- 1.2 To provide procedures for decision-making in respect of any district or local emergency declared under the Council's Emergency Response Plan where members of the Council need to be involved.

2. DECLARING AN EMERGENCY

- 2.1 The procedures and delegated authorities contained in this Appendix shall apply in the following circumstances:
 - (a) where the Council or the District is affected by an emergency situation outside the scope of the District Emergency Response Plan to such an extent that the normal decision-making processes of the Council are comprised; or
 - (b) any district-wide or local emergency situation which is declared in accordance with the Council's Emergency Response Plan.

3. EMERGENCIES OUTSIDE THE SCOPE OF THE DISTRICT EMERGENCY RESPONSE PLAN

Role of the Leader of the Council

- 3.1 The Leader of the Council, after consulting the Chairman of the Council, the Head of Paid Service, the Chief Financial Officer and the Monitoring Officer and taking account of any advice from central government, shall be authorised to determine that it is in the best interests of the Council and/or the district to declare an emergency and implement the procedures set out in Section 3.6 below.
- 3.2 For the purposes of such a declaration the Leader must be satisfied that the decision-making processes of the Council are unable to function as intended as a result of the number of members able to act being so depleted by reason of medical or other emergency that normal arrangements cannot meet the Council's requirements.

Declaring An Emergency

- 3.3 In making such a declaration, the Leader of the Council is required to:
 - (a) record the terms of the declaration of the emergency in writing;
 - (b) declare the period over which the emergency situation will apply which, in the case of national or international emergencies, will be the period declared by the Government or for period up to one month, if there is no such government guidance;

- (c) communicate this declaration to the public, members of the Council and other relevant external agencies and partners except where an emergency has been declared by the Government; and
- (d) comply in all respects with relevant Government guidance and the advice of the Head of Paid Service, Monitoring Officer and Chief Financial Officer.

Extending the Emergency Period

- 3.4 Where an emergency has been declared by the Government and subsequently extended, the Leader shall be able to exercise the authority to act as set out in 3 below.
- 3.5 Where the emergency has been called on a District basis, the Leader may also consider before the date of termination whether the period for emergency measures should be extended for a further period of one month. In considering this possibility, the Leader shall take advice in accordance with paragraph 3.1 above and consult all available members of the Council on the proposal. Such an extension may be the subject of further extensions. However, it shall be competent for the Chairman of the Council in accordance with Council Procedure Rule 3 to convene a meeting of the Council for the purpose of considering whether to terminate the emergency if they consider this necessary.

Leader's Authority to Act

- 3.6 Once an emergency situation has been declared in accordance with these procedures, the Leader of the Council is authorised as follows:
 - (a) To suspend any part of the Constitution for the duration of the designated period of emergency accept insofar as it would conflict with the Council's legal duties and obligations;
 - (b) To take such steps as are necessary to ensure that the Cabinet can continue to make decisions on the emergency which bear directly on the wellbeing of the district (or any part thereof) or its inhabitants, including:
 - (i) appointment of substitute Cabinet members to replace those members of the Cabinet who are incapacitated by illness or otherwise unavailable to participate in decision-making, such substitutes to include, where appropriate, Assistant Portfolio Holders;
 - (ii) if necessary, to appoint an Emergency Committee of the Cabinet to co-ordinate decision-making during the emergency;
 - (iii) if necessary, to determine that decision-making be conducted either by telephone, correspondence or by electronic means whatever is appropriate in the light of available advice;
 - (c) To incur expenditure under Section 138 of the Local Government Act 1972 outside the budget framework agreed by the Council which is considered essential to meet any immediate needs created by the emergency and to consult with the Chairman of the Council, the relevant Portfolio Holder, other Group Leaders and the Head of Paid Service on such commitments;

(d) To suspend meetings of the Council, Committees, Sub-Committees, Panels or other body where those decisions are deemed not to be urgent on the grounds that the wellbeing of the district or its inhabitants will not be adversely affected by delay;

(e) To determine the priority to be given to such urgent decisions referred to under (d) above once the emergency has terminated;

(f) To consider appropriate measures to ensure that the Council, the public and partner organisations are kept informed of the decisions being made.

- 3.7 In the event that both the Leader of the Council and the Deputy Leader are incapacitated by illness or other reasons and are unable to exercise the delegated authorities set out in (b) above, the Chief Executive shall, in consultation with the Chairman of the Council, secure a nomination for Acting Leader from among those Cabinet Members who are still able to act.

4. EMERGENCY SITUATIONS ARISING FROM THE EMERGENCY RESPONSE PLAN

Role of the Leader of the Council

- 4.1 The Leader of the Council, when advised by the appropriate officer of an emergency situation affecting the district or part of the district shall consider the need for the Cabinet to make decisions on the emergency and may convene an Emergency Cabinet Committee comprising at least three Cabinet members.
- 4.2 In considering whether an Emergency Cabinet Committee is required, the Leader will take into account the advice of the Head of Paid Service and the District Emergency Planning Officer.

Terms of Reference for Emergency Cabinet Committee

- 4.3 The terms of reference for any Cabinet shall include:
- (a) To receive reports on the emergency situation and progress in dealing the emergency through the Emergency Response Plan.
- (b) To receive recommendations from the appropriate officers in support of (a) above including the allocation of resources under Section 138 of the Local Government Act 1972.
- (c) To report to the Cabinet and the Council on the emergency and the action being taken to remedy the situation together with any other terms of reference specific to the emergency concerned.
- 4.4 All statutory procedures regarding recording of decisions by the Sub-Committee shall be followed and the Committee will be disbanded when the emergency is over.

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