

# Committee Agenda



**Epping Forest  
District Council**

## **CONSTITUTION WORKING GROUP Monday, 30th November, 2015**

**Place:** Civic Offices, High Street, Epping  
**Room:** Committee Room 1  
**Time:** 7.00 pm  
**Democratic Services Officer** M Jenkins democraticservice@eppingforestdc.gov.uk 01992 56 4607

Members:

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

**MEMBERS ARE REMINDED TO BRING THEIR COPIES OF THE EXISTING CONSTITUTION DOCUMENT WITH THEM TO THE MEETINGS – FURTHER COPIES CAN BE SUPPLIED ON REQUEST.**

- 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 WORKING GROUP MEETING (Pages 5 - 10)**  
To approve the notes of the last meeting held on 22 September 2015 (attached).
- 5. TERMS OF REFERENCE AND WORK PROGRAMME (Pages 11 - 16)**

(Assistant Director of Governance and Performance Management)

- (1) To note the Terms of Reference (attached)
- (2) To consider the Work Programme (attached)
- (3) To receive an update on progress with the redrafting of sections of the Constitution.

- (i) Audit and Governance/Standards Committee
- (ii) Overview and Scrutiny and OS Rules
- (iii) Members Allowances Scheme
- (iv) Contracts Rules
- (v) Remaining Articles
- (vi) Outstanding Reviews

**6. DECISION MAKING AND DELEGATION MATTERS (Pages 17 - 34)**

(Assistant Director of Governance and Performance Management) To consider:

- (1) A revised Article (14) on Decision Making – draft attached. This draft has been reviewed by the Management Board.
- (2) A draft revised Scheme of Delegation (attached)

Members are reminded to bring their copies of the existing constitution for comparison.

**7. REVISIONS TO THE CODE OF MEMBER CONDUCT (Pages 35 - 52)**

(Assistant Director of Governance and Performance Management) To consider the attached report concerning proposals for revisions to the Council's Code of Member Conduct which have been recently been considered by the Standards Committee and approved.

The Working Group are asked to consider the matter and recommend to Council accordingly.

**8. CONSTITUTION REVIEW - ARTICLE 13 (OFFICERS) (Pages 53 - 76)**

(Democratic Services Manager) To consider the attached report in respect of the review of those sections of the current Constitution relating to the Council's officers.

**9. OTHER MATTERS: DRAFT SUMMARY AND GLOSSARY (Pages 77 - 84)**

A redrafted Summary section is attached for approval/Comment

At a previous meeting members requested the development of a glossary of terms used in the new constitution.

A first draft is attached. Members are asked to comment and suggest further entries.

**10. PROPOSALS FOR EXTERNAL REVIEW OF THE NEW CONSTITUTION (Pages 85 - 88)**

(Assistant Director of Governance and Performance Management) As members will be aware it is the intention to seek an external review of the summation of the new constitutional arrangements.

A draft instruction is attached for comment.

It is intended that we seek quotations for the completion of this work which it is hoped can be contained within current legal advice budgets.

It is intended that, immediately following the meeting in the new year, the complete draft will be sent for review. The result of that review will be available to members at their meeting on 22 March 2016.

## **11. FUTURE MEETINGS**

The next meeting of the Working Group will be held on Tuesday 26 January 2016 at 7.00p.m. in Committee Room 1 and then on:

Tuesday 22 March at 7.00p.m. in Committee Room 1.

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**EPHING FOREST DISTRICT COUNCIL  
NOTES OF A MEETING OF CONSTITUTION WORKING GROUP  
HELD ON TUESDAY, 22 SEPTEMBER 2015  
IN COMMITTEE ROOM 1, CIVIC OFFICES, HIGH STREET, EPPING  
AT 7.00 - 9.30 PM**

**Members Present:** M McEwen (Chairman), M Sartin (Vice-Chairman), J Philip, C P Pond, C C Pond, D Stallan, G Waller, S Watson and J H Whitehouse

**Other members present:**

**Apologies for Absence:** D Dorrell and A Mitchell MBE

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

**9. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)**

There were no substitutions made at the meeting.

**10. DECLARATIONS OF INTEREST**

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

**11. NOTES OF THE LAST WORKING GROUP MEETING**

**RESOLVED:**

That the notes of the last meeting of the Working Group, held on 30 June 2015, be agreed.

**12. TERMS OF REFERENCE AND WORK PROGRAMME**

**(a) Terms of Reference**

The Working Group noted its Terms of Reference.

**(b) Work Programme**

There would be two items for consideration at the November Committee:

(i) Item 8 Schedule of Delegation – Revision; and

(ii) Item 9 Proposals for External Review

Item 10 regarding draft proposals would be put before the January 2016 meeting.

In addition, three extra items were added to the Work Programme, these were:

- Issues raised from the forthcoming Development Management Chair and Vice-Chairman's meeting.
- Surveillance powers for the RIPA officer.
- Amendments to the delegation rules regarding Estates.

### 13. UPDATE ON PROGRESS

The Assistant Director (Governance and Performance Management) updated the Working Group on their progress since June 2015.

- (a) Re-drafting of sections from previous meetings. Good progress had been made on the suggested re-drafts of Constitution sections since the last meeting.
- (b) Executive Procedure Rules and Articles. Again, good progress had been made, the Executive had been consulted in August of which the Leader had raised two minor issues.
- (c) Contract Standing Orders. It was advised that the Director of Communities was in the processing of amending these.
- (d) Audit and Governance – Articles. The new Chief Internal Auditor was trying to change the Audit and Governance Articles. New drafted rules would be discussed at the Working Group.
- (e) Standards Code of Conduct. The proposed revised wording of the Code of Conduct would be put before the Standards Committee on 12 October 2015.
- (f) Officer Employment Procedure Rules. The rules had been to Council and agreed.

### 14. CONSTITUTION REVIEW - ARTICLE 6 (OVERVIEW & SCRUTINY) AND OVERVIEW & SCRUTINY PROCEDURE RULES

The Working Group received a report from the Democratic Services Manager, regarding the Constitution Review – Article 6 (Overview and Scrutiny) and Overview and Scrutiny Procedure Rules.

Members made progress through the article making amendments and recommendations.

Members were advised that it was intended to seek the views of the Overview and Scrutiny Committee on the proposed changes to Article 6 and the Procedure Rules at its meeting on 20 October 2015.

#### **RECOMMENDED:**

That the revised Article 6 (Overview and Scrutiny) and Procedure Rules be referred to the Overview and Scrutiny Committee on 20 October 2015 for further consideration.

### 15. CONSTITUTION REVIEW - DEALING WITH CODES AND PROTOCOLS

The Working Group received a report from the Assistant Director (Governance and Performance Management) regarding the Constitution Review – Dealing with Codes and Protocols.

The Working Group considered a table listing the various codes and protocols and made proposals for recommendation to the Council, some sections would return to this Working Group for greater clarification.

**RECOMMENDED:**

- (1) That the following Constitutional codes and protocols be recommended to the Council for approval, deletion or amendment as indicated:
  - (a) Item 1 (Member's Charter) be amalgamated with Items 5 (Conventions on the relationships between political groups/Councillors and officers) and 9 (Councillors with officers and Officer Support Arrangements);
  - (b) Item 3 (Officer's Code of Conduct) to be deleted;
  - (c) Item 4 (Protocol – Allocation of Chairmanships and Vice-Chairmanships and Outside Organisation Places) be added to the section regarding the Appointments Panel;
  - (d) Item 8 (Code of Recommended Practice on Local Authority Publicity) be deleted;
  - (e) Item 10 (Corporate Enforcement Policy) be deleted;
  - (f) Item 14 (Protocol on the use of facilities for Councillors) be added to the Member's Charter);
  - (g) Item 15 (Statutory Officer Protocols) be added to Article 13 (Officer's Structure); and
  - (h) Item 16 (Member's Allowance Scheme) be retained but the Member's Accountability Statements section be deleted.
- (2) That the following codes and protocols be returned to the Working Group for further consideration, pending additional information as indicated:
  - (a) Item 2 (Member's Code of Conduct);
  - (b) Item 6 (Protocol for Councillors and Officers engaged in the determination of planning applications and other planning decisions);
  - (c) Item 7 (Guidance on Gifts and Hospitality) to be contained within Code of Conduct;
  - (d) Item 11 (Local Code of Corporate Governance);
  - (e) Item 12 (District Council and Local Council Charter); and
  - (f) Item 13 (Protocol on Partnerships and Other External Organisations).

**16. CONSTITUTION REVIEW - OTHER PROCEDURE RULES**

The Select Committee received a report from the Assistant Director (Governance and Performance Management) regarding the Constitution Review – Other Procedure Rules.

In addition to the main Council rules, the Constitution contained other sets of procedure rules, a table of which was submitted to Members for recommendation to the Council. As before some sections would be returned to this Working Group for greater clarification.

**RECOMMENDED:**

(1) That the following Procedure Rules be recommended to the Council for approval, deletion or amendment as indicated:

- (a) Access to Information Procedure Rules be made into a new article;
- (b) Executive Procedure Rules be deleted following review and new article;
- (c) The Overview and Scrutiny Procedure Rules be retained, but shortened in length;
- (d) The Financial Regulations be retained, unchanged;
- (e) The Officer Employment Procedure Rules be retained, unchanged;
- (f) The Administrative Operational Standing Orders be amended as follows:
  - (i) Sections 1-5 should be incorporated into Article 2;
  - (ii) Sections 6-7 should be deleted as they were duplicated elsewhere;
  - (iii) Section 9 deleted, no longer required in the Constitution; and
  - (iv) Sections 10-12 should be added to the delegation schedule.
- (i) Non-Executive Bodies – Operational Standing Orders be deleted following review.

(2) That the following Procedure Rules be returned to the Working Group for consideration pending more information:

- (a) Budget and Policy Framework Procedure Rules;
- (b) Contract Standing Orders; and
- (c) Section 8 of Administrative Operational Standing Orders be revised pending clarification.

**17. FUTURE MEETINGS**



The next scheduled meeting of the Working Group would be held on Tuesday 24 November 2015 at 7.00p.m. in Committee Room 1 and thereafter on the following dates:

- Tuesday 26 January 2016; and
- Tuesday 22 March.

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## 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	<b>COMPLETED</b>
(2) Officer Employment Procedure Rules(P Maginnis)	30 June 2015	<b>COMPLETED</b>
(3) Contract Standing Orders – Review Process (A Hall)	30 June 2015	<b>COMPLETED</b>
(4) Executive Procedure Rules and Revised Articles (S Hill)	30 June 2015	<b>COMPLETED</b>
(5) Overview and Scrutiny Article Revisions (S Tautz)	22 September 2015	<b>COMPLETED – Completed and approved by the Overview and Scrutiny Committee</b>
(6) How to deal with Codes and Protocols (S Hill)	22 September 2015	<b>COMPLETED</b>
(7) Other Procedure Rules (S Hill)	22 September 2015	<b>COMPLETED</b>
(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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New Constitution  
 Master Map  
 As at 16/11/2015 11:40

Part 1 Summary	Part 2 The Articles	Part 3 Scheme of Delegation	Part 4 The Rules	Part 5 Codes and Protocols	Part 6 Scheme of allowances
Summary	1. The Constitution	Delegation scheme generally	Main rules	Members Code of Conduct	Members allowances scheme
Glossary of Terms	2. Members of the Council	Scheme of Officer delegation of Executive matters	OS Rules	Planning Protocol	
Index and Contents	3. The Public and the Council	Scheme of Officer delegation of Council matters	Budget and Policy Framework	Gifts and Hospitality	
	4. The full Council		Financial Regulations		
	5. Chairing the Council		Contracts Rules		
	6. Overview and Scrutiny		Officer Employment Rules		
	7. The Executive				
	8. Regulatory and other Committees				
	9. The Standards Committee				
	10. DDMC and Area Plans Subcommittees				
	11. Audit and Governance Committee				
	12. Joint Arrangements				
	13. Officers				
	14. Decision Making				
	15. Finance/Contracts and Legal matters				
	16. Review and Revision of the Constitution				
	17. Suspension of the Constitution				
	18. Access to Information (NEW)				

Key:

Complete	In hand	Work yet to commence
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## ARTICLE 14 - DECISION-MAKING

### Introduction

#### 1. Responsibility for Decision-Making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in **Part 3** of this Constitution **or in relation to the responsibilities of Committees, subcommittees and panels of the Council, within the Articles of the Constitution.**

**Section 13 of the Local Government Act 2000 provides that all functions of the Council shall be functions of the Executive (Cabinet) except in so far as they are reserved to the Council by regulations made under the Act (or by subsequent or other legislation) or are otherwise delegated as shown in Part 3 of this Constitution in accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.**

#### 2. Principles of Decision-Making

All decisions of the Council (whether they are the responsibility of the Cabinet or not) will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) that relevant human and equality rights have been considered, given due regard and respected in the formulation of options and in the making of any relevant decision;
- (d) there is a presumption in favour of openness; and
- (e) there is a clarity of aims and desired outcomes.

In addition the decision-maker(s) will be required to demonstrate:

- (f) that all relevant matters were fully taken into account in reaching decisions and are for example consistent with the agreed policy framework of the Council;
- (g) that all relevant requirements of the Council's rules and Financial Regulations were complied with;
- (h) that the member(s) concerned considered whether he or she had any **pecuniary or non-pecuniary** interest in the particular item and if necessary made a declaration of interest **and acted on any conflict of interest;**
- (i) that the Scheme of Delegation had been complied with;
- (j) that the decision was properly recorded and published within the appropriate timescale, together with declarations of interest and background papers; and

- (k) **that the decision itself was made in accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000.**

### 3. Forward Plan

In accordance with the 2000 Act, the Council will prepare a Forward Plan, which will list all Key Decisions which the Cabinet anticipate that they will take during the next 4 months, **those which they propose to take in private session**, together with any particularly significant Key Decisions which they anticipate that they will take within the next 4 to 12 months. The Council may also include in the Forward Plan reference to significant decisions which are to be taken by the Council or any of its Committees or Sub Committees. This Plan will be updated on a monthly rolling programme to **coincide with the requirements of the Local Authorities (Executive Arrangements) (Meetings And Access To Information) (England) Regulations 2012**

### 4. Types of Decision

#### **Decisions reserved to the Council**

(a) Decisions reserved to the full Council relating to the functions listed in Article 4.01 will be made by the full Council and not delegated.

**(b) Decisions on supplementary expenditure will be made by Council on the recommendation of the Cabinet.**

#### **Key Decisions**

The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 define a key decision as:

— “An Executive decision which is likely:

— (i) — to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates; or

— (ii) — to be significant in terms of its effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.”

— **(c) Key Decisions – Definition of "Significance" – Redraft required**

— The Epping Forest District Council has agreed, the following definition of significance as any decision which would, if implemented, fall within any of the following descriptions:

— (i) — a significant decision under (b)(i) above shall be defined as follows:

— 1. — any decision within budget and policy which involves expenditure or savings of £250,000 or over;

— 2. — any decision not within budget and policy which involves expenditure or savings of £100,000 or over in the current Council year;

- ~~3. a decision which raises new issues of policy;~~
- ~~4. a decision which increases financial commitments (i.e. revenue and/or capital) in future years over and above existing budgetary approval;~~
- ~~(ii) a significant decision under (b)(ii) above shall be defined as follows:~~
- ~~1. any decision which comprises and includes the publication of draft or final schemes which may require either directly or in relation to objections to the approval of a Government Minister.~~
- ~~2. any decision which involves the passage of local legislation;~~
- ~~3. any decision which affects two or more wards and is one which would have a discernible effect on the quantity or quality of services provided to people living or working in that area;~~
- ~~(iii) any definition of a key decision shall exclude borrowing or lending decisions by the Head of Finance under delegated authority;~~

**(i) A “Key Decision” means an executive decision which:**

**(a) involves expenditure or savings of £250,000 or above which are currently within budget and/or policy;**

**(b) involves expenditure or savings of £100,000 or above which are NOT currently within budget and/or policy;**

**(c) has a significant impact on the local community or is one which would have a discernible effect on the quantity or quality of services provided to people living or working in two or more wards.**

**(d) raises new issues of policy;**

**(e) increases financial commitments (i.e. revenue and/or capital) in future years over and above existing budgetary approval;**

**(f) comprises and includes the publication of draft or final schemes which may require, either directly or in relation to objections to, the approval of a Government Minister.**

**(g) involves the passage of local legislation;**

**(iii) any definition of a key decision shall exclude borrowing or lending decisions by the Director of Resources under delegated authority;**

**DO WE NEED TO EXCLUDE ESTATES MATTERS?**

**(d) Key Decisions - Further Requirements - Responsibility for making a Key Decisions**

The following additional requirements in relation to key decisions have been applied by the Council:

(i) a decision-taker may only make a Key Decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution; **Article 7 (The Executive) and Article XX (Access to information)**

(ii) key decisions may not be made by Heads of Service **Officers unless specifically delegated**;

(iii) key decisions under (b)(i) above shall be made by the Cabinet if they involve amounts of £1m or more;

(v) key decisions under (b)(i) involving amounts of between £250,000 and up to £1m may be made by the appropriate Portfolio Holder; and

**(iii) Key decisions involving expenditure within the budget and policy framework up to £1,000,000 may be taken by a Portfolio Holder;**

**(iv) Key decisions involving expenditure within the budget and policy framework of £1,000,000 or greater will be taken by the Cabinet.**

#### **Non-key decisions**

**Other non key decisions shall be taken by the relevant committee, subcommittee or panel or an officer in accordance with the responsibilities for functions and articles in this constitution. Non key decisions made by the Cabinet or Portfolio Holders shall also be included in the Forward Plan wherever possible.**

#### **14.05 Decision-Making by the Full Council**

~~Subject to Article 13.09, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution.~~

#### **14.06 Decision-Making by the Executive**

~~Subject to Article 13.09, the Executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.~~

#### **14.07 Decision-Making by Overview and Scrutiny**

~~Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.~~

#### **14.08 Decision-Making by Other Committees, Sub-Committees, Panels and Boards**

~~Subject to article 13.09, other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.~~

#### **5. Decision making by Portfolio Holders**

**Individual portfolio holders may take decisions on:**

**(i) key decisions within the category in 4(d)(ii) above, or/and**

**(ii) other decisions not being the responsibility of a relevant committee, subcommittee or panel or an officer to determine; or/and**

**(iii) decisions which are not reserved to the Cabinet; or/and**

**(iv) decisions which are not contrary to the budget and policy framework and therefore a matter for the full Council to determine.**

Portfolio Holders may only make decisions on matters affecting their own wards if recommended by ~~Head of Service~~ or as one of a range of options recommended by a ~~Head of Service~~ **Director within a Portfolio Holders Decision report.**

**Where an interest has been declared by the Portfolio Holder that prevents that individual from taking a decision, that decision may be taken by another member of the cabinet (on advice) or be referred to the cabinet for decision.**

## **6. Decision making by the Cabinet**

**The Executive (Cabinet) 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. The operation of the Executive is set out in Article 7.**

## **7. Decision making by Officers**

**Officers may take decisions on those matters set out within the schedules of Council and Executive delegation in Part 3 of this Constitution and those of general management set out within Article XX (officers) and those required by other statutory provisions.**

## **8. Other Decisions**

**The Council has appointed a number of committees, subcommittees and panels to carry out certain prescribed functions that cannot be undertaken by the Cabinet. Their responsibilities are set out in the Articles of this constitution.**

## **9. Changes to the responsibility for decision making**

**The Council, Leader or Cabinet may, from time to time, vary the responsibilities for decision making in accordance with their statutory powers.**

## **10. Decision-Making by Council Bodies acting as Tribunals**

The Council, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights. For the purposes of this, the licensing and enforcement functions of any body shall be subject to this Article. Likewise the provisions of Article 6 of the European Convention relating to natural justice and a fair trial will be applied to the proceedings of the Standards Committee of the Authority.

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## **Part 3**

### **Scheme of Delegation**

Section 13 of the Local Government Act 2000 provides that all the functions of the Council shall be functions of the Executive (Cabinet) except in so far as they are reserved to the Council by regulations made under the Act (or by subsequent or other legislation). The reservation of functions to the Council is made under The Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 ('the Regulations') define those functions:

- (a) which must not be discharged by the Cabinet;
- (b) which may be the responsibility of the Cabinet;
- (c) which may not be the sole responsibility of the Cabinet; and
- (d) circumstances in which functions which would otherwise be functions of the Cabinet fall to be discharged other than by the Cabinet.

### **Matters that are the responsibility of the Council**

- Article 4 sets out those matters which the Council has reserved its decision making upon or are required to be determined by the Council under act of parliament
- Article 14 sets out the responsibility for decision making by Council.
- Appendix 1 to this scheme sets out the matters which fall into Category (d) above
- Appendix 2 to this scheme sets out the delegation of Council function to committees other than the Cabinet
- Appendix 3 sets out the delegation of matters to officers that fall within the responsibility of the Council

### **Matters that are the responsibility of the Cabinet or its Committees**

- Article 4 contains those Plans and Strategies that the Council has reserved. The Cabinet will recommend to the Council on changes to those matters.
- Article 7.01 sets out the responsibilities of the Cabinet
- Appendix 2 to Article 7 sets out the responsibilities and powers of the Cabinet Committees
- Appendix 5 to this scheme sets out the delegations of Executive functions made to officers by the Leader and the Cabinet and amended from time to time by Leader Decision.

### **Matters that are the responsibility of Portfolio Holders/Leader**

- Article 14 sets out the responsibility for decision making by Portfolio Holder

- Appendix 4 sets out those areas of the Council where Portfolio Holders have the responsibility for decision making in the absence of officer delegated powers.
- The Leader shall exercise the powers and responsibilities of Part 3 of the Local Government and Public Involvement in Health Act 2007 as detailed in Appendix 5 to this scheme.

#### **Matters which are the responsibility of Regulatory and other Committee**

- Appendix 2 of this scheme sets out the responsibilities of regulatory and other committee which are detailed within the relevant Article of the Constitution shown.
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#### **Matters that are the responsibility of Officers**

- Article 13 (Officers) sets out the responsibilities of officers and those holding statutory positions.
- Article 14 sets out the responsibility for decision making by officers
- Appendix 3 sets out the delegation of matters to officers that fall within the responsibility of the Council
- Appendix 5 to this scheme sets out the delegations of Executive functions made to officers by the Leader and the Cabinet and may be amended from time to time by Leader Decision.



### Responsibility for local choice functions

FUNCTION	DECISION-MAKING BODY	DELEGATION OF FUNCTIONS
1. Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) Regulations 2000.	Council	-
2. The determination of an appeal against any decision made by or on behalf of the authority.	Staff Appeals Panel Housing Appeals and Review Panel	- - -
3. Any function relating to contaminated land.	Executive	Function delegated to Director of Neighbourhoods/ Governance
4. The discharge of any function relating to the control of pollution or the management of air quality.	Executive	Function delegated to Director of Neighbourhoods.
5. The service of an Abatement Notice in respect of a statutory nuisance.	Executive	Function delegated to Director of Neighbourhoods
6. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisances Act 1993 should apply in the authority's area.	Council	-
7. The inspection of the authority's area to detect any statutory nuisance.	Executive	Function delegated to Director of Neighbourhoods.
8. The investigation of any complaint as to the existence of a statutory nuisance.	Executive	Function delegated to Director of Neighbourhoods
9. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.	District Development Control Committee	Function delegated to Directors
10. The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Council	Function delegated to Chief Executive, Deputy Chief Executive, Directors.
11. The making of agreements for the execution of highways works under Section 278 of the Highways Act 1980, substituted by Section 23 of the New Roads and Street Works Act 1991.	Executive	Function delegated to Executive Member holding the Civil Engineering and Maintenance Portfolio.

FUNCTION	DECISION-MAKING BODY	DELEGATION OF FUNCTIONS
<p>12. The appointment of any individual:</p> <p>(a) to any office other than an office in which he is employed by the authority;</p> <p>(b) to any body other than:</p> <p style="padding-left: 40px;">(i) the authority;</p> <p style="padding-left: 40px;">(ii) a Joint Committee of two or more authorities; or</p> <p>(c) to any Committee or Sub-Committee of such a body, and the revocation of any such appointment.</p>	<p>Council</p>	<p>Item (a) delegated to Head of Paid Service/Chief Executive and Directors.</p> <p><u>Item (b) and (c)</u></p> <p>No delegation.</p> <p>No delegation.</p>

**Delegation of Council functions to other Committees**

<b>Committee</b>	<b>Function</b>	<b>Details of where delegation can be found</b>
Appointments Panel	To consider appointments to Committees, subcommittees, Panels and Groups including Non-scrutiny Chairman and Vice Chairman position and make recommendations to Council	Article 8 for matters within its terms of reference
Area Plans Subcommittees	Planning and Conservation  Functions relating to town and country planning and development control	Article 10 for matters within their terms of reference and defined geographical area
Audit and Governance Committee	Providing assurance on the governance of the authority including risk and financial controls	Article 11 for matters within its terms of reference
District Development Management Committee	Planning and Conservation  Functions relating to town and country planning and development control	Article 10 for matters within its terms of reference
Housing Review and Appeals Panel	To decide appeals by tenants and housing register applicants against determinations made by officers	Article 8 for matters within its terms of reference
Joint Consultative Committee	To undertake consultation and negotiation on matters relevant to industrial relations, productivity, work arrangements and terms and conditions of employment.	Article 8 for matters within its terms of reference
Licensing Committee and Licensing Subcommittee	Licensing Functions	Article 8 for matters within its terms of reference
Member Remuneration Panel	To consider the Council's scheme of member remuneration and submit recommendations to Council	Article 8 for matters within its terms of reference

<b>Committee</b>	<b>Function</b>	<b>Details of where delegation can be found</b>
Overview and Scrutiny	The undertaking of the Council's overview and scrutiny function pursuant to Section 21 of the Local Government Act 2000	Article 6 for matters within its terms of reference
Parish Remuneration Panel	To consider any Local Council's scheme of member remuneration and submit recommendations to that Council	Article 8 for matters within its terms of reference
Staff Appeals Panel	To decide appeals by employees of the Council.	Article 8 for matters within its terms of reference
Standards Committee	Promotion of high standards of conduct by Councillors in the Council and in Local Councils.  Agreeing the Code of Conduct for Councillors	Article 9 for matters within its terms of reference

**Schedule of Council Delegation**

Schedule To be inserted here

### **Portfolio Responsibilities**

#### **Leaders Portfolio**

Cabinet Chairman, Signatory for decisions taken in absence of other portfolio holders or where they have a material (Disclosable or personal) interest, Co-ordination of Cabinet business, Corporate Objectives, performance indicators and plans. Representation of Council across established forums and meetings as at present. Liaison with Chief Executive, Directors and Leadership Team.

#### **Finance**

Deputy Leader. Budget setting and reporting, financial management including investments, procurement and insurance. Risk Management. Responsibility for finance functions including Accountancy, Housing Benefits, Council Tax and NNDR, Cashiers. Welfare Reform. Debt and recovery.

#### **Technology and Support Services**

Matters related to the Council's ICT team and future strategy. Those support services within the remit of the Resources Directorate, for example, HR, Payroll, Administration, Reprographics, Health and Safety and Facilities management.

#### **Governance and Development Management**

Matters related to legal services, local land charges, Democratic services, information and PR including the website provision. To lead on performance improvement and meeting the equality duties of the Council. Elections section and compliments/complaints. Freedom of information. Audit. Matters relating to Development Control, Enforcement and Building Control.

#### **Assets and Economic Development**

Commercial property, estates and asset management (including North Weald airfield assets) and economic development/tourism. Broadband for the District, Business Champion.

#### **Housing**

Council housing and housing land sales, proposals for affordable housing. Homelessness and its prevention, HRA estate management, investment, tenant matters including transfers and maintenance/repairs. Sheltered and private sector housing. Decent homes and adaptations. Careline and Care and Repair. Park Homes.

#### **Safer, Greener, Transport**

Community Safety, Safeguarding, Premises & Taxi Licensing, Conservation, Countrycare, Tree Protection, Energy Efficiency, Energy conservation, Fuel Poverty, Car Parking & NEPP Liaison, Highways Liaison, Public Transport Liaison, Community Transport.

## **Environment**

Environmental Health matters and management, waste management, pollution and land drainage/sewers. Statutory nuisances, abandoned vehicles and animal welfare. Environmental co-ordination. Depots management and Fleet Operations. Grounds maintenance and Roding Valley LNR.

## **Leisure and Community Services**

Leisure Management. Emergency Planning and North Weald Airfield (Operations). Neighbourhood services

Health and sport. Arts, Community and Sports Development including holiday schemes, Museum Services, Young people and Youth Council. Grant Aid requests. A champion for the voluntary sector.

## **Planning Policy**

All matters related to the delivery of the local plan, planning policy and large scale S106 and CIL.

**EPPING FOREST DISTRICT COUNCIL - SCHEME OF DELEGATION  
OF EXECUTIVE FUNCTIONS**

**1. GENERAL PRINCIPLES**

- (a) This scheme delegates the powers and duties of the Executive to Cabinet Members and officers as a partnership.
- (b) This scheme delegates powers and duties within portfolios and includes powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation as well as authorising the affixing of the Common Seal.
- (c) This scheme operates under Section 15 of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and all other powers enabling.
- (d) Officers and Cabinet Members shall keep members (especially ward members) properly informed of activity and its implications arising within the scope of these delegations.

**2. GENERAL LIMITATIONS**

- (a) Before taking a decision a Cabinet Member shall receive advice from the appropriate officer.
- (b) Any exercise of delegated powers shall be subject to a policy framework approved by the Council or the policies approved by the Cabinet from time to time including the Employment Policies (and Disciplinary Procedures), Equal Opportunities, Service Delivery Policies, and shall be guided by the relevant Codes of Conduct or Council protocols.
- (c) Any exercise of delegated powers shall be subject to:
  - (i) any statutory restrictions;
  - (ii) standing orders;
  - (iii) financial regulations; and
  - (iv) procurement standards.
- (d) In exercising delegated powers, Cabinet members and officers shall not go beyond the provision in the revenue or capital budgets for their service except to the extent permitted by financial regulations and procurement policy.
- (e) A Cabinet member shall not exercise delegated powers in respect of any issue which relates solely to his/her ward only, except if.
  - (i) the action is recommended by a Chief Officer; or
  - (ii) the action is one of a range of options recommended by a Chief Officer



### **3. GENERAL PROVISIONS**

(a) This scheme includes the power for officers further to delegate in writing all or any of the delegated functions to other officers (described by name or post) either fully or under the general supervision and control of the delegating officer. Sub-delegations shall be recorded and kept by the relevant Director.

(b) All action taken under the terms of these delegations shall be properly documented.

(c) It shall always be open to an officer either to consult with the appropriate Cabinet member on the exercise of delegated powers, or not to exercise delegated powers but to refer the matter to the Cabinet.

(d) It shall be open to a Cabinet member to determine that the exercise of their delegated powers is not appropriate in cases where a Chief Officer or the Monitoring Officer recommends reference to the Cabinet, where consultation with other members indicates that the matter should be referred to the Cabinet or where the Leader of the Council so directs.

(d) In exercising delegated powers, officers shall consult with other appropriate officers and shall have regard to any advice given.

(e) In this scheme "officer" means the holder of any post named in this scheme as having delegated powers and duties.

### **4. SPECIFIC DELEGATIONS**

#### **4.1 Leader of Council**

Exercise of the powers and duties of the Leader of the Council in accordance with Part 3 of the Local Government and Public Involvement in Health Act 2007 including:

(a) appointment of other Cabinet members up to a maximum of 9;

(b) allocation of responsibility for executive functions to Cabinet Members and Service Directors;

(c) establishment and terms of reference of Cabinet Committees;

(d) approval of representatives on outside organisations directly involved in the carrying out of executive functions;

(e) appointment of a Deputy Leader of the Council.

#### **4.2 Cabinet Members**

Decisions on executive functions falling within the allocated Cabinet service portfolio, and which are not delegated to officers.

#### **4.3 Officers**

May take any decision which:

(a) implements a policy or decision previously approved or taken by the Council, the Cabinet or a Cabinet member;

(b) facilitates or is conducive or incidental to the implementation of a policy or decision previously taken by the Council, the Cabinet or a Cabinet member;

(c) relates to the management of the human, material and financial resources made available for carrying out the functions for which they are responsible; and

(d) matters delegated by the Council, the Cabinet, a Committee or Sub-Committee from time to time under this scheme.

...

#### **5. SPECIAL CIRCUMSTANCES**

- 5.1 Where the proposed decision affects more than one service portfolio, there shall be an obligation for the other Cabinet members to be consulted before a decision is made.
- 5.2 Where a decision is of corporate significance or where there is a conflict of view, such matter shall stand referred to the Cabinet for consideration.
- 5.3 Cabinet members shall, in the exercise of delegated powers, consult with the Chairman of the appropriate Overview and Scrutiny Committee and the ward Councillor(s) where appropriate.
- 5.4 Cabinet Members shall have regard to the requirements of the Council's petitions procedure when making decisions on matters raised in such representations.

**Schedule to be inserted here**



### ***Report to the Standards Committee***

***Report Reference: STD-001-2015/16***

***Date of meeting: 12 October 2015***

**Report of: Monitoring Officer**

**Subject: Revisions to the Code of Member Conduct**

**Responsible Officer: Colleen O'Boyle (01992 564475)**

**Democratic Services: Gary Woodhall (01992 5642)**

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#### **Recommendations:**

- (1) To consider proposals for changes to the Council's Code of Conduct;**
  - (2) To advise the Constitution Working Group of the agreed proposals for onward recommendation to Council; and**
  - (3) To circulate the code to the Joint Standards Committee and Parish Council's inviting their adoption.**
- 

1. (Monitoring Officer) Members will be aware of the complete review of the Council's Constitution currently being undertaken by the Constitution Working Group. Members will have a separate report on the proposals for the revision of the Council Article relating to this Committee. As part of the review, officers have been looking at whether the Council's Code of Conduct requires any amendment.

2. The review is timely for a number of reasons:

- (i) There has been no recent review in light of operational experience;
- (ii) Since the last iteration of the Code, the Government has published a further report of the Committee on Standards in Public Life;
- (iii) There has been a recent standards case that has resulted in an Investigator making recommendations in relation the treatment of non-pecuniary interests.
- (iv) There is a need to be consistent in the way that constitutional elements are written.

3. Two areas are highlighted as being in need of review:

- (i) Dealing with Non-pecuniary interests
- (ii) Revisions to the Nolan principles

#### Dealing with Non-Pecuniary Interests

4. The Investigators report into case no. 2/2014 contains a recommendation as follows:

"There may be a case to refer the issue of the wording of paragraph 10 back to the standards committee to confirm that it achieves what was intended. As currently drafted it does not take effect unless there is a pecuniary interest which is not the

case in this instance [in the case under investigation]. However there may be merit in considering whether its scope was intended to include **any** instance of an interest where a member of the public with knowledge of the relevant facts would reasonably regard [the interest] as so significant that it is likely to prejudice their judgement in the public interest”

5. The issue with the current code is that it remains silent on predetermination in the case of having a non-pecuniary interest. Having rechecked with the Public Legal Partnership a later version of their Model Code has the following provision:

“Public Perception

If you have an interest which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement in the public interest and you are present at a meeting of the Authority at which such business is to be considered or is being considered you must:

- (i) Disclose the existence and nature of the interest; and
- (ii) Withdraw from the room or chamber where the meeting considering the business is being held”

6. This addition would give guidance on non-pecuniary interests and deal with the subjective assessment each Council must make on items where they may be open to accusations that they are predetermined.

7. It is suggested that this wording be included in a new draft of our code. The Committee are asked whether they agreed to its inclusion.

The Nolan Principles

8. The Government has, since the last review of the Code, published a further report of the Committee on Standards in Public Life. That report<sup>1</sup> reviews the principles that the Nolan Committee<sup>2</sup> originally put forward. There are suggested minor wording changes as a result of their review, which leave the headings unchanged do change the descriptions.

9. Within their report the Committee flags up the following reasoning for these changes:

- The description of the present formulation of honesty refers to holders of public office having a duty to declare any conflicts of interest. The avoidance of conflicts of interest fits more obviously into our current understanding of integrity. Most people today would expect honesty to have a much broader meaning, focusing on truthfulness. This has particular resonance at the present time since a number of issues of current concern have involved allegations of inappropriate behaviour being covered up.

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<sup>1</sup> Report of the Committee on Standards in Public Life published here:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/228884/8519.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228884/8519.pdf)  
Chapter 3

<sup>2</sup> First Nolan Committee Report  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/336919/1stInquiryReport.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336919/1stInquiryReport.pdf)

- Discussion around the importance of public office-holders making decisions on merit, tends to refer more frequently to impartiality than to objectivity. We think it would be helpful to include impartiality in the description of the meaning of objectivity.
- Equality of opportunity has become even more of a central tenet of thinking about ethics and values in the period since the principles were first established. We think it would be helpful to make clearer that objectivity requires giving full regard to the importance of equality of opportunity and fair treatment, irrespective of individual characteristics such as disability, race, gender or sexual orientation.
- Public office-holders sometimes need to show courage in speaking up about difficult issues, speaking “truth to power” and making or sticking by difficult decisions. We see this as a key element of ethical leadership and have amended the description of leadership accordingly.

10. The Committee has concluded therefore that some adjustments to the principles wording were needed. The revised wording is attached as Appendix 1 to this report. The Committee are asked to consider their adoption.

#### Other Issues

11. The Constitution Working Group has been undertaking a full review of the Constitution. As part of their work, they have looked at a number of the ancillary documents that are attached which have, over time, increased the size of the document. It has been suggested by the Working Group that the Planning Protocol should be rewritten and guidance on gifts and hospitality should be rationalised and appended to the Code of Conduct so it can be easily found.

12. It is proposed that these two redrafted documents come back to this committee at its next meeting.

13. The committee may wish to take this opportunity to raise other matters on the code that they wish officers to give further consideration to.

#### Adoption and the Town and Parish Councils

14. It will be necessary for the District Council to adopt the new code. Likewise affiliated Local Councils would need to be encouraged to adopt the revision. Officers propose to contact the Local Councils and provide a standard report with resolution and the new code document. Officers will also attend the next meeting of the Epping Forest Joint Standards Committee to talk about the changes proposed.

15. For ease of reference a tracked changes version of the amended code is attached at Appendix 2 for discussion.

## **Introduction**

The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources.

The principles also have application to all those in other sectors delivering public services.

## **Selflessness**

Holders of public office should act solely in terms of the public interest.

## **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

## **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

## **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

## **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

## **Honesty**

Holders of public office should be truthful.

## **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

**Draft revisions for 2015**

**Epping Forest Standards Committee**

**Promoting and Maintaining High Standards of  
Conduct in Local Government**

**Code of Member Conduct**

# Councillor Code Of Conduct

## Part 1 General Provisions

### Introduction and interpretation

As a member you are a representative of this authority and the public will view you as such therefore your actions impact on how the authority as a whole is viewed and your actions can have both positive and negative impacts on the authority.

This Code as a whole is consistent with “Nolan Principles” and the provisions of S29(1) Localism Act 2011

Glossary of terms used:

“relevant period” means the period of 12 months ending with the day on which you give notification to the authority’s monitoring officer of any disclosable pecuniary interests you had at the time of the notification.

“profit or gain” includes any payments or benefits in kind ~~which are subject to Income Tax~~

“beneficial interest” means having an economic benefit as a legal owner or holding it on trust for the beneficial owner, having a right to the income from the land or securities or a share in it or the right to the proceeds of sale or share of part of the proceeds of sale

### 1. Who does the Code apply to?

This Code applies to all members of the Epping Forest District Council, including co-opted members.

It is your responsibility to comply with the provisions of this Code.

### 2. What does the Code apply to?

**The Code applies to you whenever you are acting in your capacity as a member of the Council, including:**

**(a) at formal meetings of the Council and all of its committees and subcommittees;**

**(b) when acting as a representative of the Council;**

**(c) in discharging your functions as a ward councillor;**

**(d) at meetings with officers;**

**(e) at site visits;**

**(f) when corresponding with the Council other than in a private capacity.**

**The Code does not seek to regulate what you do in your private and personal lives.**

### 3. General obligations

- (1) You must treat others with respect.
- (2) You must uphold the law



- (3) You must not:
- (a) do anything which may cause your authority to breach any of the equality enactments;
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or is likely to be:
    - (i) a complainant,
    - (ii) a witness, or
    - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
  - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

#### **4. Confidential Information**

You must not:

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is:
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

#### **5. Conferring an advantage or disadvantage**

You:

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

- (b) must, when using or authorising the use by others of the resources of your authority:
  - (i) act in accordance with your authority's reasonable requirements;
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

## PART 2 MEMBERS INTERESTS

### 6. Disclosable Pecuniary Interests

6.1 You have a disclosable pecuniary interest in any business of your authority if it is of a description set out in 6.2 below and is either:

- (a) An interest of yours
- (b) An interest of your spouse
- (c) An interest of your civil partner
- (d) An interest of a person you are living with as a spouse or civil partner

And in the case of paragraphs 6.1 (b) – 6.1 (d) (“relevant persons”) where you are aware that that relevant person has the interest

**(b) An interest (of which you are aware) of a spouse, civil partner or a person you are living with as a spouse or civil partner (known as ‘Relevant Persons’).**

6.2 It relates to or is likely to affect:

- (i) Any employment, office, trade, profession or vocation carried on by you or a relevant person for profit or gain;
- (ii) Any payment or provision of any other financial benefit (other than from your authority) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (iii) Any beneficial interest in securities of a body where-
  - (1) that body (to your knowledge) has a place of business or land in the area of your authority and
  - (2) either:
    - (a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - (b) the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class

- (iv) Any contract for goods, services or works which has not been fully discharged between you or a relevant person and your authority or a body in which you or they have a beneficial interest;
- (v) A beneficial interest in any land in your authority's area;
- (vi) Any tenancy where to your knowledge (a) the landlord is your authority and (b) the tenant is a body in which you or a relevant person has a beneficial interest;
- (vii) a licence of any land in your authority's area (alone or jointly with others) that you or a relevant person occupy for a month or longer.

## 7. **Other Pecuniary Interests**

7.1 You have a Pecuniary Interest in any business of your authority where either it relates to or is likely to affect:

- (i) any person or body who employs or has appointed you;
- (ii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraph 6.2.(iii) which has been fully discharged within the last 12 months;

## 8. **Non-Pecuniary Interests**

8.1 You have a non-pecuniary interest in any business of your authority where it relates to or is likely to affect:

- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the authority;
- (ii) any body:
  - (1) exercising functions of a public nature; or
  - (2) directed to charitable purposes; or
  - (3) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);

of which you are a member or in a position of general control or management;

- (iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
- (iv) a decision in relation to that business which might reasonably be regarded as affecting your wellbeing or the wellbeing of a relevant person to a greater extent that the majority of:-
  - (a) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or

- (b) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's areas

## **9. Disclosure of Interests**

- 9.1 Subject to sub-paragraphs 9.2 to 9.6, where you have a Disclosable Pecuniary Interest, **other** Pecuniary Interest or a Non-Pecuniary Interest in any business of your authority and you are present at a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.
- 9.2 Sub-paragraph 9.1 only applies where you are aware or ought reasonably to be aware of the existence of the pecuniary or non pecuniary interest
- 9.3 Where you have an interest in any business of your authority which would be disclosable by virtue of paragraph 9.1 but by virtue of paragraph 14 (sensitive interests) details of the interest are not registered in your authority's published register of members' interest and that the interest is a disclosable pecuniary interest (if that is the case) but you need not disclose the nature of the interest to the meeting
- 9.4 Where you have a pecuniary interest in any business of your authority and a function of your authority may be discharged by you acting alone in relation to that business, you must ensure you notify the authority's monitoring officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business
- 9.5 Where you have an interest in any business of your authority which would be disclosable by virtue of paragraph 9.1 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest
- 9.6 In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000

## **10. Disclosure of Interests generally**

- 10.1 Subject to sub-paragraph 10.2 where you have a pecuniary interest in any business of your authority you also have a disclosable pecuniary interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgment in the public interest.
- 10.2 You do not have a disclosable pecuniary interest in any business of your authority where that business-
  - (i) does not affect your financial position or the financial position of a person or body described in paragraph 8.1 (a) i. and ii.;

- (ii) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8.1 (a) i and ii; or
- (iii) relates to the functions of your authority in respect of-
  - (a) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - (b) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (d) an allowance, payment or indemnity given to members;
  - (e) any ceremonial honour given to members; and
  - (f) setting council tax or a precept under the Local Government Finance Act 1992

## 11. Effect of Disclosable Pecuniary Interests on participation

### 11.1 You may not-

- a. ~~if present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority and~~
- b. ~~you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and~~
- c. ~~you are aware that sub-paragraph 11.1.b is met:~~

**(a) If you are present at a meeting of the Authority or of any committee, subcommittee, joint committee or Joint Subcommittee and you or a Relevant Person has a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at a meeting and you are aware of that interest:**

- (i) **You must not** participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting.
- (ii) **and You** must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a

dispensation from the **Standards Committee or the Authority's** ~~proper officer~~ **Monitoring Officer**

- (iii) **You must not** exercise executive functions in relation to any business of the authority; and
  - (iv) **You must not** seek improperly to influence a decision about that business
- (b) If a function of your authority may be discharged by a member acting alone and you have a disclosable pecuniary interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enable the matter to be dealt with otherwise than by yourself).

~~11.2 If you have a pecuniary interest other than a disclosable pecuniary interest in any business of your authority which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and you are present at a meeting of the authority at which such business is to be considered or is being considered you must:-~~

~~11.2.1 Disclose the existence and nature of the interest in accordance with paragraph 9.1 (but subject to paragraph 9.3)~~

~~11.2.2 Withdraw from the room or chamber where the meeting considering the business is being held unless you have obtained a dispensation from your authority's proper officer in a case where paragraph 11.3 applies immediately after making your representations or in any other case when the business is under consideration unless you have obtained a dispensation from your authority's proper officer~~

**NEW:**

**11.2 Public Perception**

**If you have an interest which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement in the public interest and you are present at a meeting of the Authority at which such business is to be considered or is being considered you must:**

**(i) Disclose the existence and nature of the interest (subject to the provisions of paragraph 9(3) above); and**

**(ii) Withdraw from the room or chamber where the meeting considering the business is being held"**

## PART 3 REGISTER OF MEMBERS INTERESTS

### 12. Registration of Members' Interests

- (a) Subject to paragraph 13, you must, within 28 days of:
- (i) this Code being adopted by or applied to your authority; or
  - (ii) your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the authority

register in your authority's register of members' interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

- (i) disclosable pecuniary interests<sup>i</sup> as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner in so far as you are aware of their interests at that time
- (ii) pecuniary interests referred to in paragraph 7 that you have;

**(iii) Non Pecuniary Interests referred to in paragraph (8) (i), (ii) and (iii) that you have**

~~(b) Subject to paragraph 13, you must within 28 days of becoming aware of any new disclosable pecuniary interest as referred to in paragraph 6 that you, your spouses, civil partner or person with whom you live as if they were your spouse or civil partner or change to any disclosable pecuniary interest registered under paragraphs 12. i. or ii above by providing written notification to your authority's Monitoring Officer~~

**(b) You must keep your Register of Interests up to date by notifying the Monitoring Officer of any changes to your interests referred to in (a) above within 28 days of the change occurring or becoming aware of the change**

### 13. Sensitive Information

13.1 Where you have a disclosable pecuniary interest referred to in paragraph 6 or pecuniary interest referred to in paragraph 7 and the nature of the interest is such that you and your authority's monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the authority's register then copies of the register available for inspection and any published version of the register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.

13.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 13.1 is no longer sensitive information, notify your authority's monitoring officer



13.3 In this Code “sensitive information” means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation.

## **CODE OF CONDUCT APPENDIX 1**

### **THE NOLAN PRINCIPLES AND SECTION 28(1) OF THE LOCALISM ACT 2011**

#### **SELFLESSNESS**

~~To serve only the public interest and never improperly confer an advantage or disadvantage on any person.~~

#### **INTEGRITY**

~~Not to place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.~~

#### **OBJECTIVITY**

~~Make decisions on merit, including when making appointments, awarding Contracts or recommending individuals for rewards or benefits.~~

#### **ACCOUNTABILITY**

~~To be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their Office.~~

#### **OPENNESS**

~~To be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions.~~

#### **HONESTY**

~~Not to place themselves in situations where their honesty may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behaviour.~~

#### **LEADERSHIP**

~~Should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.~~

### Selflessness

Holders of public office should act solely in terms of the public interest.

### Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

### Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### Honesty

Holders of public office should be truthful.

### Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

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## **Report to Constitution Working Group**

**Date of meeting: 30 November 2015**



**Epping Forest  
District Council**

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**Subject:** Constitution Review - Article 13 (Officers)

**Officer contact for further information:** S. Tautz (01992 564180)

**Democratic Services Officer:** M. Jenkins (01992 564607)

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### **Recommendations/Decisions Required:**

**That the Working Group consider proposed revisions to Article 13 (Officers) of the Constitution.**

### **Report:**

1. (Democratic Services Manager) The aim of the current review of the Council's Constitution is for the Working Group to look critically at each part of the Constitution to try and bring together and rationalise procedures against the relevant legislative background.
2. Under the current Constitution, the rules relating to the Council's officers are contained in Article 13 and a number of separate protocols and conventions. At its last meeting, the Working Group agreed that the following elements of the Constitution be incorporated within Article 13:
  - Officer Support Arrangements;
  - Statutory Officer Protocols;
  - Conventions on the Relationships between Political Groups/Councillors and Officers; and
  - Member's Charter.
3. A revised version of Article 13 of the Constitution is attached as Appendix 1 to this report for consideration by the Working Group.
4. As part of its ongoing review of the Constitution, the Working Group has previously decided that where rules apply generally, they should be taken into the main rules section. Therefore in the redrafting of the rules section of the Constitution, officers have attempted to take sections into the rules. Some of what was previously contained in separate protocols and conventions has been inserted into the new Article 13 and the re-drafted Article also seeks to address instances of relevant procedures being spread across the Constitution, making it difficult to use.
5. Members are reminded to bring their copies of the Constitution to the meeting.

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## ARTICLE 13 – OFFICERS

### 1. MANAGEMENT STRUCTURE

#### (a) General

The full Council may engage such staff (referred to as 'officers') as it considers necessary to carry out its functions.

#### (b) Chief Officers

The Council will engage persons subject to the Officer Employment Procedure Rules for the following posts, who will be designated as chief officers:

Chief Executive  
Director of Communities  
Director of Governance  
Director of Neighbourhoods (and Deputy Chief Executive?)  
Director of Resources

The main functions and areas of responsibility of each chief officer will be as set out in the management structure chart attached as Appendix 1 to this Article, as revised from time to time.

The chief officers are members of the Management Board and share responsibility for the proper running and governance of the Council.

Post	Functions and areas of responsibility
Chief Executive 3 year appointment	Head of Paid Service to provide leadership of the Council's workforce.
Deputy Chief Executive	Member of Management Board. Responsible for general corporate management issues and management advice to Heads of Service. Lead role for Parish Council liaison, health, Community Care and Social Services. Member of Management Board. Provides mutual cover for Chief Executive. Responsible for general corporate management issues and management advice to Service Directors. Lead role for Performance Management, Customer Complaints/Compliments. North Weald Airfield (Strategy). Sports, Arts, Museum Development. Youth Council.
Director of Finance	Chief Financial Officer The operation and management of Financial Services, Accountancy, Budget Strategy, Insurance, Debtors, Creditors and Cashiers, Housing Benefits, Council Tax/Community Charge, ICT Data Protection.

<b>Post</b>	<b>Functions and areas of responsibility</b>
Director of Environment and Street Scene	Operation and management of Environmental Services: Architectural Services, Building Services, Highways, Client Drainage, Street Lighting, Footpaths, Car Parks, Environmental Health, Refuse Collection/Recycling/Street Cleaning, Grounds maintenance, playground maintenance, Roding Valley Nature Reserve, North Weald Airfield (Operations), management of Sports and Leisure Centres.
Director of Corporate Support Services	<p>The operation and management of Legal and Administrative Services, Legal Services, Civic Offices Building Management, Burials Administration, Licensing, Local Land Charges, Reprographics, Office Services, Estates and Valuation.</p> <p>Oversight of the recruitment and selection process, including the setting and monitoring of corporate standards. Responsibility for the management of the Council's employee relations machinery, i.e. Joint Consultative Committee, plus all terms and condition/local agreements/policy frameworks for human resources. Delivering a corporate training plan and framework for identifying training need across the Council. Payroll.</p>
Director of Housing	<p>Housing strategy and policy  Housing association partnerships and developments  Housing register and transfer list  Homelessness  Allocation of Council accommodation  Nominations to housing associations  Council garage waiting lists, allocations and management  Management of the Council's homeless persons hostel  Housing mobility schemes  Housing finance  Housing rents  HRA house and land sales  Leasehold services  Housing information  Tenant participation  Housing repairs and Maintenance  Disabled adaptations to Council properties  Gas servicing of Council properties  Housing management  Sheltered housing  Careline  Emergency planning—Housing  Private Sector Housing</p>
Director of Planning and Economic Development	<p>Forward Planning/District Wide Plan. Urban and Rural Regeneration: Land Use, Transport, Economic Development and Environmental Issues.  Development Control: Planning Applications and Enforcement.  Conservation: Listed Buildings, Conservation Areas, Trees, Landscape Design Advice. Countryside Management.  Building Control/Dangerous Structures.</p>



**(c) ~~Head of Paid Service, Monitoring Officer and Chief Financial~~ Statutory Officers**

The Council will designate the following posts as **statutory officers**. Such posts will have the functions described in **Section 2 of this Article**:

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service
<b>Director of Governance</b>	Monitoring Officer
<b>Director of Resources</b>	Chief Finance Officer ( <b>Section 151 Officer</b> )

To assist the Monitoring Officer and Chief Finance Officer, the Council will designate a Deputy Monitoring Officer and Deputy Section 151 Officer to assist with their responsibilities.

**(d) Structure**

The Head of Paid Service will determine and publicise a description of the overall organisational structure of the Council showing the management structure and deployment of officers.

**2. GENERAL FUNCTIONS OF THE STATUTORY OFFICERS**

Details of how the responsibilities of the statutory officers will be discharged are set out in Appendix 2 to this Article. The general functions of the statutory officers are as follows:

**Head of Paid Service**

The general functions of the Head of Paid Service are as follows:

(NB. Brought forward from Statutory Officer Protocol for Monitoring Officer. No list of functions for Head of Paid Service appears to exist in Protocol!)

**(a) Discharge of Functions by the Council**

The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

**(b) Restrictions on Functions**

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer, if a qualified accountant.

**Monitoring Officer**

The general functions of the Monitoring Officer are as follows:

Description		Source
1.	Report on contraventions or likely contraventions of any enactment of rule of law	Section 5, Local Government and Housing Act 1989
2.	Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5, Local Government and Housing Act 1989
3.	Personal appointment of Deputy	Section 5, Local Government and Housing Act 1989
4.	Report on resources	Section 5, Local Government and Housing Act 1989
5.	Investigate misconduct in compliance with regulations made and directions of Ethical Standards Officers	Regulations when made. Directions when made in individual cases. LGA 2000 Section 66 (1) + 66 (6)
6.	Establish and maintain registers of Members' interests and gifts and hospitality	Section 81 LGA 2000 and Model Code of Local Government Conduct
7.	Advice to Members on the interpretation of the Code of Conduct and Local Protocols	Model Code and title of Regulations
8.	Key role in promoting and maintaining high standards of conduct through support to Standards for England (Standards Board abolished 31 March 2012?)	Statutory Guidance, paragraph 8.20
9.	Liaison with Standards for England and Ethical Standards Officers (Standards Board abolished 31 March 2012?)	New ethical framework, practical implications
10.	New ethical framework functions in relation to Town and Parish Councils	Section 83 (12) LGA 2000
11.	Power to make payments or provide other benefit as compensation for maladministration	Section 92 LGA 2000
12.	Advice on vices issues, maladministration, financial impropriety, probity and policy framework and budget issues to all elected Members	DETR guidance; Council Constitution 2007

**(a) Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.

**(b) Ensuring Lawfulness and Fairness of Decision-Making**

After consulting with the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the full Council or to the Executive in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

**(c) Supporting the Standards Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

**(d) Receiving Reports**

The Monitoring Officer will receive and act on reports made by ethical Standards Officers and decisions of the case tribunals.

**(e) Conducting Investigations**

The Monitoring Officer will conduct investigations into matters referred by ethical Standards Officers and make reports or recommendations in respect of them to the Standards Committee.

**(f) Proper Officer for Access to Information**

The Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

**(g) Advising whether Executive Decisions are within the Budget and Policy Framework**

The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.

**(h) Providing Advice**

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.

**(i) Restrictions on Posts**

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

**Chief Finance Officer**

The general functions of the Chief Finance Officer are as follows:

(NB. Brought forward from Statutory Officer Protocol for Monitoring Officer. No list of functions for Chief Finance Officer appears to exist in Protocol!)

**(a) Ensuring Lawfulness and Financial Prudence of Decision-making**

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the full Council or to the Executive in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully. Such a report will have the effect of stopping the proposal, decision or course of action being implemented until the first business day after the report has been considered.

**(b) Proper Administration of Financial Affairs**

The Chief Financial Officer will have responsibility for the proper administration of the financial affairs of the Council.

**(c) Contributing to Corporate Management**

The Chief Financial Officer will contribute to the corporate management of the Council, in particular, through the provision of professional financial advice.

**(d) Providing Advice**

The Chief Financial Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and the Elected Mayor and will support and advise Councillors and Officers in their respective roles.

**(e) Provision of Financial Information**

The Chief Financial Officer will provide financial information to the media, members of the public and the community.

**3. DUTY TO PROVIDE SUFFICIENT RESOURCES TO THE MONITORING OFFICER AND CHIEF FINANCIAL OFFICER**

The Council will provide the Monitoring Officer and Chief Financial Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed. ~~To assist the Monitoring Officer, the Council will designate a Deputy Monitoring Officer to assist with the Monitoring Officer's responsibilities.~~

**4. CONDUCT**

Officers will comply with the Officers' Code of Conduct.

**5. EMPLOYMENT AND DISMISSAL OF STAFF**

The recruitment, selection and dismissal of officers will comply with the Council's Officer Employment Rules set out elsewhere in this Constitution, supplemented where appropriate by the council's personnel policies and procedures.

**6. DELEGATION TO OFFICERS**

The delegation of powers to chief officers is set out in Part 3 of this constitution.

## **7. OFFICER SUPPORT ARRANGEMENTS**

Management Board will manage the business submitted to the Cabinet and Overview and Scrutiny. The Chief Executive will be the lead officer for the Cabinet with ~~Service Directors~~ **chief officers** attending when required. ~~The Head of the Policy Unit will undertake the role of "Cabinet Secretary".~~ The Deputy Chief Executive will be the lead officer for the Overview and Scrutiny Committee. ~~The co-ordination of the "call-in" procedure will be undertaken within Democratic Services led by the Assistant to the Chief Executive.~~

Democratic Services will support both the Executive and non-Executive sides of the Council and Agenda Planning Groups will be held for Cabinet and the Overview and Scrutiny Committee. The Agenda Planning Group for the Cabinet will be chaired by the Chief Executive whilst the Overview and Scrutiny Committee Agenda Planning Group will be chaired by the Deputy Chief Executive. ~~A Democratic Services Officer will support both agenda planning groups and the Cabinet and Overview and Scrutiny Committee themselves. Existing officer agenda planning party meetings for non-executive committees, groups etc. will continue where appropriate.~~

## **8. CONVENTIONS ON THE RELATIONSHIPS BETWEEN POLITICAL GROUPS & COUNCILLORS WITH OFFICERS**

The conventions for the management of relationships between councillors, political groups and officers, is set out in the Protocol attached as Appendix 3 to this Article.

## **9. MEMBERS' CHARTER**

The arrangements for effective working between between councillors and officers, is set out in the Charter attached as Appendix 4 to this Article.

**APPENDIX 1**

**MANAGEMENT STRUCTURE**

Management structure chart to be added here.

DRAFT

## APPENDIX 2

**NB. IS THIS PROTOCOL REQUIRED? THIS DETAIL COULD BE INCORPORATED WITHIN ARTICLE 13.**

### STATUTORY OFFICER PROTOCOLS

#### PROTOCOL REGULATING THE DUTIES OF THE HEAD OF PAID SERVICE

##### A GENERAL INTRODUCTION TO STATUTORY RESPONSIBILITIES

1. The Head of Paid Service is a statutory appointment pursuant to Section 4 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged in Epping Forest District Council.
2. The current responsibilities of the Head of Paid Service role rest with the Chief Executive, who should discharge these statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council.
3. ~~A summary list of the statutory responsibilities appears in the table annexed to this document.~~ (NB. No table exists in current version!) In general terms, the Head of Paid Service's ability to discharge the following duties and responsibilities will depend, to a large extent, on elected members and officers:
  - (a) addressing the staffing needs of the authority;
  - (b) meeting the staffing needs of the Council;
  - (c) the appointment and proper management of the staff.

##### B WORKING ARRANGEMENTS

4. Having excellent working relations with members and officers will assist in the discharge of the statutory responsibilities of the Head of Paid Service. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and officers should, therefore, work with the Head of Paid Service to discharge the Council's statutory and discretionary responsibilities.
5. The following arrangements and understandings between the Head of Paid Service, Members and Directors are designed to ensure the effective discharge of the Council's business and functions. The Head of Paid Service will:
  - (a) be alerted by Members and officers to any issue(s) that may become of concern to the Council, including the manner in which the discharge by the Council of its different functions is co-ordinated, the number and grades of staff required for the discharge of its functions, the organisation of the Council's staff and the appointment and proper management of the Council's staff;
  - (b) have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council at which a decision may be made (including a failure to take a decision where one should have been taken) at or

before the Council, Executive, Committee meetings and Sub-Committee meetings (or equivalent arrangements);

- (c) have the right to attend any meeting of the Council (including the right to be heard and report to the Executive) before any decision is taken (including a failure to take a decision where one should have been taken) at or before the Council, Executive, Committee meetings and Sub-Committee meetings (or equivalent arrangements);
  - (d) in carrying out any investigation(s) and exercising any duties have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of the functions;
  - (e) ensure that other statutory officers (Chief Finance Officer and the Monitoring Officer) are kept up-to date with relevant information regarding the manner in which the Council discharges its various functions, the corporate approach of the Council, the staffing needs of the Council, the organisation of the staff and the appointment and proper management of the staff;
  - (f) meet regularly with the Chief Finance Officer and the Monitoring Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern described in (e) above;
  - (g) report to the Council, from time to time, on the corporate approach of the Council and any necessary or desirable changes following consultation, in particular, with the Chief Finance Officer and Monitoring Officer;
  - (h) in accordance with the statutory requirements, make a report to the Council, as necessary, on the staff, accommodation and resources required to discharge his statutory functions;
  - (i) develop a relationship based on respect and trust with the Leader, Deputy Leader and the Chairmen of the Standards, Regulatory, and Scrutiny Committees with a view to ensuring the effective and efficient discharge of Council business;
  - (j) develop effective working liaison and relationship with the External Auditor;
  - (k) in consultation, as necessary, with the Chairman of the Council, the Executive and the External Auditor, defer the making of a formal report under Section 4 of the Local Government and Housing Act 1989 where another investigative body is involved;
  - (l) have access to an appropriate budget (whether corporate or serviced based) to address any matter concerning the Head of Paid Service's functions.
6. To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other legal or constitutional concerns to the Head of Paid Service, as soon as practicable.
7. The Head of Paid Service is also available for Members and Officers to consult on any issues of the corporate approach of the Council, staffing needs, appointment and management of staff.



8. To ensure the effective and efficient discharge of this Protocol, the Head of Paid Service will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Head of Paid Service role.
9. The Head of Paid Service will record details of any advice given.

#### **Conflicts of Interest**

10. In the event that the Head of Paid Service acknowledges, after taking appropriate advice, that a conflict of interest exists on a matter which requires action he or she will not be involved in the consideration of that matter and will make arrangements for the action to be taken by one of the other statutory officers or another Director.

#### **Review of Protocol**

11. ~~This protocol shall be reviewed every two years or more frequently if necessary. Don't think that this actually happens?~~

### **PROTOCOL REGULATING THE DUTIES OF THE ROLE OF MONITORING OFFICER**

1. The Monitoring Officer undertakes to discharge the responsibilities outlined in this Protocol with determination and in a manner which will enhance the reputation of the Council. In general terms the ability to discharge these duties depends on excellent working relations with colleagues and elected Members of the Council, but also on the flow of information and access to debate, particularly at early stages.
2. The following arrangements and understandings between the Monitoring Officer and colleagues and Councillors are designed to help ensure the effective discharge of the Monitoring Officer's functions:-
  - (a) the Monitoring Officer will be a member of the Council's Management Board;
  - (b) the Monitoring Officer will be given advance notice of meetings (whether formal or informal) between Chief Officers, Committee and Sub Committee Chairmen where any procedural, vires or other constitutional issues are likely to arise;
  - (c) the Monitoring Officer will have access to all meetings;
  - (d) members of Management Board (the Chief Executive and Directors) will be responsible for alerting the Monitoring Officer to all emerging issues of concern including legality, probity, vires and constitutional issues;
  - (e) the Monitoring Officer will be provided with access to all reports to Councillors;
  - (f) the Monitoring Officer is expected to develop good liaison and working relations with the Standards for England (or any successor body), its Ethical Standards Officers, the District Auditor and the Local Government Ombudsman, including giving and receiving relevant information, whether confidential or otherwise, whether requested or not;
  - (g) the Monitoring Officer will ensure that the Head of the Paid Service and the Chief Financial Officer have up-to-date information regarding emerging issues;

- (h) the Monitoring Officer will be expected to make or commission enquiries into allegations of misconduct by Councillors;
- (i) the Head of the Paid Service, Chief Financial Officer and Monitoring Officer will meet regularly to consider and recommend action in connection with current governance issues and other probity matters;
- (j) in carrying out any investigation the Monitoring officer will have unqualified access to any information held by the Council and any employee who can assist in the discharge of his/her functions.
- (k) the Monitoring Officer will have access to an appropriate budget (whether corporate or service based) sufficient to enable him/her to seek Counsel's opinion or take appropriate action on any matter concerning his/her functions;
- (l) the Monitoring Officer will be responsible for preparing a training programme for Members of the Council on the ethical framework, for approval by the Standards Committee;
- (m) the Monitoring Officer will report to the Council from time to time on the Constitution and any necessary or desirable changes following consultation, in particular with the Head of the Paid Service and the Chief Financial Officer;
- (n) the Monitoring Officer may defer the making of a formal report under Section 5 of the LGHA 1989 where another investigative body is involved;
- (o) the Monitoring Officer may make an annual report to the Council on the staff, accommodation and resources required to discharge his/her functions;
- (p) the Monitoring Officer will appoint a deputy to act in his/her absence and will ensure that he/she is briefed on emerging issues;
- (q) the Monitoring Officer will make arrangements to ensure good communication with the Clerks to the Town and Parish Councils in the District;

#### **Summary of Monitoring Officer Functions**

**These details now incorporated in the Article.**

3. The Monitoring Officer is to be the primary qualified person in respect of advice on the application of Section 36 of the Freedom of Information Act 2000 in accordance with the Secretary of State's decision of December 2004. Where the Monitoring Officer is absent responsibility for carrying out the functions of the qualified person will fall to the Deputy Monitoring Officer, subject to consultation with the Chief Executive.

#### **Conflicts of Interest**

4. If any member of the Council has concerns about any conflict of interest concerning the duties of the Monitoring Officer they shall:
  - (a) raise those concerns with the Head of Paid Service or with the Monitoring Officer directly; and

(b) the Monitoring Officer will undertake to review the issue (if necessary taking advice of the Council's Corporate Governance Group) and respond to the concerns with action proposed;

(c) such concerns about possible conflicts of interest shall be raised on the understanding that:

(i) it is for the Monitoring Officer to determine whether a conflict of interest exists;

(ii) that such concerns should not be raised in formal meetings of the Authority without prior consultation with the Monitoring Officer; and

(d) in the event that the Monitoring Officer acknowledges that conflict of interest exists, he/she will make arrangements for the matter concerned to be undertaken by the Deputy Monitoring Officer, if necessary after discussion with CGG members.

#### **Review of Protocol**

5. ~~This protocol shall be reviewed every two years or more frequently if necessary. Don't think that this actually happens?~~

### **PROTOCOL REGULATING THE DUTIES OF THE CHIEF FINANCE OFFICER (SECTION 151 OFFICER)**

1. The Chief Finance Officer is a statutory appointment pursuant to Section 151 of the Local Government Act 1972. This Protocol provides some general information on how those statutory requirements will be discharged at Epping Forest District Council.
2. The current responsibilities of the Chief Finance Officer role rest with the Director of Finance and ICT, who undertakes to discharge these statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council. In doing so, the Chief Finance Officer will also safeguard, so far as is possible, elected members and officers whilst acting in their official capacities, from financial difficulties.
3. ~~A summary list of the statutory responsibilities appears in the table annexed to this document. (NB. No table exists in current version!)~~ In general terms, the Chief Finance Officer's ability to discharge the following duties and responsibilities will depend, to a large extent, on members and officers:-
  - (a) complying with the Council's financial procedures;
  - (b) making lawful payments; and
  - (c) not taking action that would result in unlawful payments or unlawful action.

#### **WORKING ARRANGEMENTS**

4. According to the Chartered Institute of Public Finance and Accountancy (CIPFA), there are five key roles that are critical to the achievement of a Chief Finance Officer's statutory responsibilities:-
  - (a) maintaining strong financial management underpinned by effective financial controls;

- (b) contributing to corporate management and leadership;
- (c) supporting and advising democratically elected representatives;
- (d) supporting and advising officers in their operational roles; and
- (e) leading and managing an effective and responsive financial service.

... The key activities for each of these roles are set out in Annex 1.

5. Having good working relations with Members and Officers will assist in the discharge of the statutory responsibilities of the Chief Finance Officer. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and officers should, therefore, work with the Chief Finance Officer to discharge the Council's statutory and discretionary responsibilities.
6. The following arrangements and understandings between the Chief Finance Officer, Members and Directors are designed to ensure the effective discharge of the Council's business and functions. The Chief Finance Officer will:-
  - (a) be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including in particular, issues concerning financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit;
  - (b) have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council particularly those at which a decision may be made (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Committee meetings and Sub-Committee meetings (or equivalent arrangements);
  - (c) have the right to attend any meeting of the Council (including the right to be heard and report to the Cabinet) before any decision is taken (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Committee meetings and Sub-Committee meetings (or equivalent arrangements);
  - (d) in carrying out any investigation(s) and excising any fiduciary duties, have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of his functions;
  - (e) ensure the other statutory officers (Head of Paid Service and the Monitoring Officer) are kept up-to-date with relevant information regarding any financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit;
  - (f) meet regularly with the Head of Paid Service and the Monitoring Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit;
  - (g) report to the Council, from time to time, on Financial Regulations and any necessary or desirable changes following consultation, in particular with the Head of Paid Service and Monitoring Officer;

- (h) as per the statutory requirements, make a report to the Council, as necessary, on the staff, accommodation and resources required to discharge his statutory functions;
  - (i) develop effective working liaison and relationship with the External Auditor (including having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary);
  - (j) In consultation, as necessary, with the Chairman of the Council, the Executive and the External Auditor, defer the making of a formal report under Section 114, 115 and 116 of the Local Government and Finance Act 1988 where another investigative body is involved;
  - (k) have access to sufficient resources from within corporate or service budgets to carry out the responsibilities of the Chief Finance Officer's functions but without a designated budget being provided;
  - (l) nominate a suitably qualified deputy and keep the deputy briefed on any relevant issues that the deputy may be required to deal with in the absence of the Chief Finance Officer;
  - (m) appoint an appropriate adviser in cases where the Chief Finance Officer is precluded from offering advice and the deputy is unable to advise; and
  - (n) the Council shall appoint a suitably qualified officer to act as Deputy Chief Finance Officer.
7. To ensure the effective and efficient discharge of the arrangements sets out in paragraph 5 above, members and officers will report any breaches of statutory duty or of Council policies or procedures and other legal or constitutional concerns to the Chief Finance Officer, as soon as practicable.
  8. The Chief Finance Officer is also available for members and officers to consult on any issues relating to the Council's financial powers, possible unlawful payments, or general advice on the financial arrangements.
  9. To ensure the effective and efficient discharge of this Protocol, the Chief Finance Officer will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Chief Finance Officer role.
  10. The Chief Finance Officer or deputy will record details of any advice given.

#### **CONFLICTS OF INTEREST**

11. If any member of the Council has concerns about any conflict of interest concerning the duties of the Chief Finance Officer they shall:
  - (a) raise those concerns with the Head of Paid Service or with the Chief Finance Officer directly; and

(b) the Chief Finance Officer will undertake to review the issue (if necessary taking advice of the Council's Corporate Governance Group) and respond to the concerns with action proposed;

(b) Such concerns about possible conflicts of interest shall be expressed on the understanding that:

(i) it is for the Chief Finance Officer to determine whether a conflict of interest exists; and

(ii) that such concerns should not be raised in formal meetings of the Authority without prior consultation with the Chief Finance Officer.

12. In the event that the Chief Finance Officer acknowledges that a conflict of interest exists he/she will make arrangements for the matter concerned to be undertaken by the Deputy Chief Finance Officer, if necessary after discussion with CGG members.

#### **Review of Protocol**

- ~~13. This protocol shall be reviewed every two years or more frequently if necessary. Don't think that this actually happens?~~

## **APPENDIX 3**

### **CONVENTIONS ON THE RELATIONSHIPS BETWEEN POLITICAL GROUPS & COUNCILLORS WITH OFFICERS**

#### **1. INTRODUCTION**

1.1 The formal business of the Council is regulated by the Constitution and various supplementary guidance. The conventions set out in this document are for guidance of the members of the Council and Directors and are aimed at supplementing those rules and guidance.

#### **2. ENTITLEMENT TO INFORMATION**

2.1 Any member of the Council may ask the appropriate Director for written factual information about a Directorate (or part thereof) or service. Such requests will be met, subject to any legal requirements (including the Freedom of Information and Data Protection Acts).

2.2 Where a Director on his own initiative provides information to any Member of a political group, the information will also be supplied to the other Groups through their Group Leaders unless it is of a routine or minor nature.

2.3 Where a request for information by a Group Leader, Deputy Group Leader or Spokesperson on behalf of a political group is made to a Director, such information shall, so far as is reasonable, remain confidential to the Group in question. In the event that the supply of information to one political group only may give that group an advantage, the Director concerned will discuss and agree a timescale for its release to all groups.

2.4 All Councillors are asked to respect the close working relationships between Cabinet members and Directors. The operation of Executive arrangements inevitably results in close collaboration between Directors and the Portfolio Holder(s) with responsibility for their services. Those working arrangements should not be used to deny other members of the Council access to information which they require. Equally, such requests may create a sensitive situation for Directors. Councillors need to be aware that Directors should not be placed in a position of having supplied information to a Councillor which might be used politically with the Cabinet member.

2.5 A particular case in point is questions without notice to Cabinet members at Council meetings. Members seeking information for the purposes of such questions must bear in mind that it may be necessary to share the information so that the role of the Director is not compromised. Directors must be open with Councillors if this situation arises and agree at the outset the confidentiality which applies in supplying the information and the timing of any disclosure to the Portfolio Holder. By the same token, Portfolio Holders and Directors will need to acknowledge rights of non Cabinet members to information which set out in the local government law and this Constitution.

#### **3. BRIEFINGS ON COUNCIL BUSINESS**

3.1 Formal briefings may be arranged for meetings to discuss business to be transacted at meetings. Member representatives of the remaining political groups may be invited to attend briefings on Council business with the Leader (or any other Cabinet member) or the Chairman and Vice-Chairman of any other body. Independent councillors (i.e. those not affiliated to any political group) shall be entitled to attend briefings in respect of those meetings of which they are members.

3.2 Briefings for meetings will deal with (a) procedural matters (b) up-dating of information contained in agenda items by officers and (c) any questions from political groups.

3.3 All briefings will be held at a mutually convenient time, usually on the day of the meeting in question and where possible will be published on the weekly calendar in the Council Bulletin. The actual time will depend on the starting time of meeting proper. This arrangement will not be amended without the approval of all political groups.

3.4 In the case of the Cabinet members or Chairmen and Vice-Chairmen, arrangements may be made by the Chief Executive or appropriate Director for separate briefings of a more general character where this is necessary to familiarise members with current Council policies. Discretion and judgement will however, be used by Directors and Chairmen and Vice-Chairmen so as to ensure that information is not sought or given which might give any political group an advantage.

#### **4. BRIEFING OF POLITICAL GROUPS**

4.1 Officers of the Council will not attend meetings of political groups on the Council.

4.2 Meetings of group leaders may be held. Such meetings will have no executive powers but will be authorised to meet with the Chief Executive on an informal basis to discuss business to be considered by the Council.

4.3 Group Leaders' meetings shall have formal agenda and minutes and shall be chaired by the Leader of the largest political group if present.

#### **5. MEETING PRACTICE**

##### **5.1 Role of Chairman**

The Chairman of the Council, the Leader of the Cabinet or the Chairman of any Committee, Sub-Committee or Panel/Working Group shall ensure that there is a reasonable opportunity for debate and that there is effective despatch of Council business. The Chairman shall ensure that every motion which is properly proposed and seconded is put to the vote.

##### **5.2 Casting Vote**

In circumstances where a second or casting vote may be required, the Chairman shall consider whether to make a second or casting vote by taking advice on whether the decision is necessary and whether there will be a further opportunity to debate the issue concerned within a reasonable timescale. The Chairman may decide, dependant on that advice, not to make a casting vote or if one is cast, to vote according to the status quo. However, in some cases there is no status quo (e.g. quasi judicial decisions concerning planning, licensing and appeals of various kinds) and in those circumstances the Chairman shall vote in accordance with their judgement of the public interest. Chairmen will acknowledge at all times the requirement under the Constitution to signify whether he or she intends to vote in the first vote on any matter before a meeting. **NB Already included in revision of procedure rules?**

##### **5.3 Respect for the Chair and Behaviour**

Group Leaders will do everything possible to ensure that members of their groups are aware of the rules of debate and proper standards of behaviour at all meetings.

##### **5.4 Group Representatives – District Development ~~Control~~ Management Committee/Area Plans Sub Committees**



Immediately following the Annual Council meeting, all political groups will specify their nominated representatives on these Committees and Sub-Committees. The role of the Group representative shall be to act as spokesman for their group in connection with those meetings.

### **5.5 Seating Arrangements – Council and Committee Meetings**

Seating in the Council Chamber shall be agreed between the political groups.

### **5.6 Committee Minutes**

Draft minutes will be cleared with the appropriate Chairman.

## **6. RELATIONS WITH THE MEDIA**

6.1 Official media statements will be issued on behalf of the District Council, a Portfolio Holder, an Overview and Scrutiny or other Committee Chairman. Such statements may be prepared in consultation with appropriate Directors but must be approved by the quoted Members before issue. Quoted members will also be consulted on statements issued within the broader context of a proactive media release and in response media enquiries. Statements issued through the Public Relations and Marketing Officer (Including quoted comments by members) must reflect the nature of decisions or Council policy and exclude 'political' comment.

6.2 Members may speak directly to the media on any given issue (subject to legal constraints such as the Data Protection Act) in order to express personal or political points of view.

6.3 Political Groups may issue their own press releases either through group leaders or group representatives. These will be solely the province of the political group concerned and will not involve officer input except in so far as a group wish to check factual information. Press statements arising from Council business and issued in a party capacity by a Leader or Group Representative must be careful to differentiate between the Council's policy and the views of the group concerned.

6.4 The Chairman and Vice-Chairman of the Council have a special role within the authority by virtue of their civic responsibilities. To reflect this role, they will receive special support from relevant officers in carrying out those duties.

6.5 Political groups and individual councillors shall bear in mind the special rules which apply to Council publicity during election periods and shall bear in mind the guidance set out in Appendix 2 to this report.

## **7. APPOINTMENT OF REPRESENTATIVES**

7.1 The appointment of representatives to any outside body of a permanent nature or involving regular attendance will be determined by the Council in accordance with Council Procedure Rules.

## **8. FACILITIES FOR MEMBERS**

8.1 Word processing facilities are available in accordance with Council policy for member correspondence, on application to Democratic Services. Typing for the Chairman and Vice-Chairman of the Council is provided by Democratic Services **relevant officers**.

8.2 Photocopying facilities are available in the Members' Room, ~~free of charge~~.

## **9. REVIEW OF CONVENTIONS**

9.1 The conventions set out in this document will be reviewed from time to time. The Chief Executive will also initiate a special review at any time if required by a change in the political balance on the Council or on the request of any of the political groups.

DRAFT

## APPENDIX 4

### MEMBERS' CHARTER

1. Epping Forest District Council hereby undertakes for all members of the Council -
  - (a) to provide information on a timely basis about the Council which is available under the law and to which members are entitled;
  - (b) to have the right to attend meetings of the Cabinet, committees, sub-committees and panels of the Council, except regulatory committees, notwithstanding he/she is not a member thereof and, with the permission of the Chairman, take part in the discussion, but not vote or introduce new business;
  - (c) to ensure open access to relevant officers subject to normal protocols and courtesies, e.g. prior notification to relevant ~~Head of Service~~ **Director** or Assistant ~~Head of Service~~ **Director** before approaching junior officers;
  - (d) to recognise the rights of all councillors to be consulted in advance about matters affecting them as members, with particular regard to their ward constituency role and to be notified in advance about any proposed action;
  - (e) to meet the reasonable training needs of all members necessary for their duties and responsibilities for the authority;
  - (f) to recognise and provide support for the role of members in:
    - carrying out ~~Best Value~~ Service Reviews
    - representing their constituents
    - scrutinising Executive decisions
    - participating in review of policy and procedure
    - exercising their right to challenge and call in Executive decisions
  - (g) to respond promptly to correspondence from Councillors and to provide dedicated secretarial, administrative and research support;
  - (h) to provide suitable facilities for all members consistent with their communication and information needs;
  - (i) to provide a continual development training programme relating to duties as a Councillor; and
  - (j) to recognise the duty of the Chairman of the Council to act as spokesperson or champion for the needs of all Councillors in upholding this Charter.
2. Each member of the Council undertakes:
  - (a) to respect the duties and responsibilities of the Executive and its legal right to make decisions on its functions;

- (b) to respect confidentiality of Council information and proceedings where appropriate particularly where exempt or confidential business is involved;
- (c) to recognise that there is an expectation for training attaching to duties of a Councillor;
- (d) to acknowledge that failure to participate in required training will risk members being unable to participate fully in relevant decision making, particularly in relation to regulatory and planning committees;
- (e) not to use the "call-in" procedure unnecessarily;
- (f) to treat officers and other members with respect at all times;
- (g) to respect the role of officers in running their services;
- (h) to avoid unreasonable or personalised criticism of officers or other members at public meetings or similar occasions, or to the press or to constituents;
- (i) to adhere to the requirements of Standing Orders regarding visits to Council premises and dealings with individual staff; and
- (j) to uphold the Local Government Code of Conduct at all times.

3. Breach of this Charter may result in reference to the Standards Committee

## SUMMARY AND EXPLANATION

### The Council's Constitution

Epping Forest District Council has agreed a new constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

### What's in the Constitution?

The Constitution itself is divided into 18 articles (see Part 2) which set out the basic rules governing the Council's business.

Article 1 sets out fundamental provisions of the Constitution, confirms the Council's commitment to acting within the law and defines the documents comprising the Constitution. It also sets out information on the Council's community leadership role and how the Constitution will support that role.

Articles 2 - 16 explain the rights of citizens and how the key parts of the Council operate. These are:

2. Members of the Council
3. The Public and the Council
4. The full Council
5. Chairing the Council
6. Overview and Scrutiny
7. The Executive
8. Regulatory and other Committees
9. The Standards Committee
10. DDMC and Area Plans Subcommittees
11. Audit and Governance Committee
12. Joint Arrangements
13. Officers
14. Decision Making
15. Finance/Contracts and Legal matters
16. Review and Revision of the Constitution
17. Suspension of the Constitution
18. Access to Information (NEW)

Additionally the Constitution contains how decisions are delegated to individuals or officers of the Council (Part 3), the rules by which it operates its meetings (Part 4), its Code of Conduct for members (Part 5) and the Members Allowances Scheme (Part 6).

### How the Council Operates

The Council is composed of 58 Councillors each elected for a four year period, with one third of the total number being elected three years in four (elections to the Essex County Council being held every fourth year). Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their ward constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the code

of conduct. This code is set out in Part 5 of this Constitution.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policy framework and set the budget each year. The Council appoints the Leader and the Chairman and Vice-Chairman of the Council, its committees, and sub-committees, panels and Working Groups. The Council also appoints representatives to outside bodies, confirms the appointment of the Head of Paid Service, can adopt bye-laws and promote legislation and can be involved in a number of community engagement activities. The Leader is responsible for appointing members of the Cabinet and appointing members to outside bodies that fall within the responsibility of the Executive.

### **How Decisions are made**

The Cabinet (Executive) is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is made up of a maximum of ten Councillors consisting of a Leader and nine other Portfolio holders appointed by the Council. When major decisions are to be discussed or made, these are published in the Cabinet's forward plan in so far as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Cabinet, this will generally be open for the public to attend except where personal or confidential matters are being discussed.

The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

### **Overview and Scrutiny**

There is one Overview and Scrutiny Committee which supports the work of the Cabinet (by acting as a critical friend) and the Council as a whole. They can allow citizens to have a greater say in Council matters by holding public meetings into matters of local concern.

These can lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. The Overview and Scrutiny Committee also monitors the decisions of the Cabinet. They can 'call-in' a decision (see Part 4 Section 2) which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet or Portfolio Holder to reconsider their decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

To give local citizens a greater involvement in development control issues, three Area Plans Subcommittees have been running for a number of years. These cover different geographical areas within the district and are responsible for determining planning applications and for related development control matters for those areas. They involve councillors from each particular area and are held in public. The public can, by prior arrangement, speak on matters that directly affect them.

### **The Council's Staff**

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and members of the Council. (See Article 13)

## Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes.

Where members of the public use specific council services, or have a special relationship with the Council, for example as a council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillors about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive in accordance with legal requirements or by using our petitions procedure, to seek change on matters of local concern;
- participate in the Council's question time and contribute to investigations by the Overview and Scrutiny Committees when invited to do so;
- find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by them or officers, and when;
- attend meetings of the Cabinet where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council and Cabinet;
- complain to the Council or compliment it about a service through the Council's compliments and complaints procedure if they are pleased about a service or member of staff or are not happy with the way the Council has done something or feel that the Council failed to do something.
- complain to the Ombudsman if they think the Council has not followed its procedures properly but they should only do this after using the Council's own complaints process;
- complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct;
- inspect the Council's accounts and make their views known to the external auditor;
- attend meetings of the Council, the Cabinet, committees, sub-committees and panels and see agenda, reports, background papers and minutes for those meetings, except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;

As an aid to understanding some of the terms used in this constitution, a glossary has been provided within this section of the Constitution.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please telephone 01992 564000 between 9.00 a.m and 5.00 p.m and ask for Democratic Services.

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## GLOSSARY

### Glossary of some of the terms used in the Constitution

Articles	The basic rules governing the Council's business, which cannot be suspended.
Budget/ Budget framework	All the financial resources allocated to different services and projects.  The agreed budget levels for each year form a framework for expenditure which only the Council can alter.  The cabinet manage the budget within the limits applied by the Council.
Cabinet	Portfolio-holding Councillors, including the Leader, responsible for carrying out almost all of the local authority's functions. Also known as the Executive
Call-in	A mechanism, which allows Overview & Scrutiny Committees to examine, and challenge, an Executive decision before it is implemented.
Chief Finance Officer	The officer responsible for the administration of the financial affairs of the Council; also known as the Director of Finance.
Chief Officers	The most senior Council staff – see Article xx and the Officer Employment Procedure Rules.
Committee/ Subcommittee	A group of members appointed by the Council to undertake tasks allocated to it under the articles of this constitution or my direct instruction of Council. Decisions are taken collectively by majority present at a meeting.
Confidential Information	Information either given to the Council by the Government on terms which forbid its public disclosure or which cannot be publicly disclosed by Court Order.
Constitution	The document setting out how the Council operates, how decisions are made and all the procedures that have to be followed.
Co-optee/Co-opted	A non-voting, non-Councillor appointed to serve on a Committee/Sub-Committee in an advisory capacity.
Councillors/Members	A person elected by their local community to represent them. Each Councillor represents a ward (a defined area of the District) for a period of four years.
Council	The collective term for all 58 Councillors. The Council meets as a group seven times a year to take decisions on matters that affect the budget and policy framework.

Director	The most senior officers, after the Chief Executive, each of whom is responsible for Council service departments Also called a Chief Officer.
Executive	Term used to describe the collective role of the Leader, Cabinet & individual Cabinet Members.
Exempt Information	Information falling into one of 15 categories set out in the Local Government (Access to Information) Act 1985 which usually cannot be publicly disclosed – see the Access to Information Procedure Rules.
Forward Plan	A schedule of all the Key Decisions the Executive expects to take over the next 4 months.
Governance	The collective terms used to describe the process of continuous monitoring of the implementation of policies and practices that ensure the good management of the Council. The Council has a Corporate Governance Group which oversees this
Head of Paid Service	The most senior officer, with overall responsibility for the management and operation of the Council; also known as the Chief Executive.
Joint Committee	A body appointed under Section 101 of the Local Government Act 1972 normally in connection with another authority
Key Decision	A decision by the Cabinet or Cabinet Member, which is likely either to incur significant expenditure/make significant savings or to have a significant impact on local communities. The criteria used to identify Key Decisions are set out in the Article 14. (Decision Making)
Leader	A Councillor that is appointed by Council to chair the Cabinet, give strategic direction to the Council and its Officers. Also appoints the Cabinet and decides upon delegation arrangements for executive functions.
Monitoring Officer	The officer charged with ensuring that everything that the Council does is fair and lawful. Also deals with complaints about Councillors
Overview & Scrutiny	Providing support and advice to the Executive by contributing to the review and development of policy; holding the Executive to account by questioning, challenging and monitoring their performance.
Policy Framework	The plans and strategies, which have to be adopted by the full Council and in accordance with which the Cabinet have to operate – see Article 4. (Full Council)

Portfolio/Portfolio Holder	<p>A group of Council functions for which a member of the Cabinet has responsibility for decision making and affecting use of Council resources.</p> <p>A member of the Cabinet who has collective and individual decision making powers for an number of Council services and sections</p>
Procedure Rules	Detailed rules, which govern how the Council operates and how decisions are taken. See section 4 of this Constitution
Proper Officer	An Officer appointed by the Council to undertake a statutory function, can be a different person for each function. Often the Chief Executive or Monitoring Officer.
Protocols	Codes of Practice, which set out how, for example, how various elements of the Council, are expected to operate a.
Quorum	The minimum number of people who have to be present before a meeting can take place.
Standards Committee	A Committee responsible for promoting and maintaining high standards of conduct by Councillors and considers written allegations that a Councillor has failed to comply with their Code of Conduct.
Terms of Reference	Each Committee will have rules and constraints within which it can take decisions. These rules are its Terms of Reference .
Virement	Moving funds from one area of expenditure to another.

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**IN THE MATTER OF LOCAL GOVERNMENT LAW  
AND IN THE MATTER OF EPPING FOREST DISTRICT COUNCIL PROPOSED NEW  
CONSTITUTION**

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**INSTRUCTIONS TO COUNSEL TO ADVISE THE COUNCIL ON ITS PROPOSED  
NEW CONSTITUTION**

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**Counsel receives with these instructions a copy of:**

1. Full draft of the new Constitution (To be provided by 1 February 2016)
2. Existing Constitution is here:  
  
<http://rds.eppingforestdc.gov.uk/ieListMeetings.aspx?CId=638&Info=1>

Counsel is instructed by Miss Colleen O'Boyle, Director of Corporate Support Services and Solicitor to the Council of Civic Offices, High Street, Epping, Essex, CM16 4BZ (Reference CSS/FS/MPL/214/1/2842 and CSS/FS/MPL/214/1/2867)

1. A full response to this would be most appreciated by 22 March 2016
2. Queries in relation to this matter should be directed at Simon Hill, Assistant Director of Governance and Performance Management.  
  
Email: [shill@eppingforestdc.gov.uk](mailto:shill@eppingforestdc.gov.uk)  
Tel: 01992 564249
3. If conference is required with Officers of the Council this can also be arranged.
4. The Council's constitution has, over the time since 2000, grown in size to over 600 pages.
5. The Council has decided that a full review of its constitutional arrangements is now due and wishes to make the new version easier to understand and for user to find the relevant provisions.
6. The Council has delegated the matter of a complete review of its Constitution to a Working Group of members that is due to complete its review by way of report to full Council on 26 April 2016.

**Counsel is instructed to:**

1. Please advise the Council (through its Working Group):
  - (i) Of the appropriateness of its proposed constitution:

(ii) Whether any matters should not have been included in the Constitution and conversely are there matters that must be contained in the document that have been omitted.

(iii) On any material deficiencies on the summation of the new constitution and what amendments need to be made to correct these deficiencies.;

(iv) Are there any errors that need to be corrected.

(vi) Whether the proposed provisions meet the ongoing requirements of the Local Government Act 2000 and subsequent regulations;

(vi) Whether the detailed work on new Contracts Rules (Part 4 Section 5) provides the Council with a lawful set of contracts procedures (Contract Standing Orders) that meet the current EU and UK legislation.

For reference a link to meetings of the Constitution Working Group:

<http://rds.eppingforestdc.gov.uk/ieListMeetings.aspx?CId=743&Year=0>

Predecessor OS Panel here:

<http://rds.eppingforestdc.gov.uk/ieListMeetings.aspx?CId=523&Year=2014>

**IN THE MATTER OF BUILDING  
AND CONSTRUCTION LAW  
AND IN THE MATTER OF  
LIMES FARM COMMUNITY HALL  
LIMES FARM CHIGWELL ESSEX**

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**INSTRUCTIONS TO COUNSEL TO  
ADVISE THE COUNCIL ON ITS NEW  
CONS**

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Mark Belford The Clerk  
DX 301 London  
Chancery Lane

Colleen O'Boyle  
Solicitor to the Council and  
Director of Corporate Support Services  
Epping Forest D. C.  
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Ref: CSS/FS/MPL/214/1/2842 and  
CSS/FS/MPL/214/1/2867

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