

# ***Supplementary Committee Agenda***



**Epping Forest  
District Council**

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## ***Constitution Working Group Tuesday, 22nd March, 2016***

**Place:** Committee Room 1, Civic Offices, High Street, Epping

**Time:** 7.00 pm

**Democratic Services:** M. Jenkins Tel: (01992) 564607  
Email: [democraticservices@eppingforestdc.gov.uk](mailto:democraticservices@eppingforestdc.gov.uk)

**8. CONSTITUTION REVIEW - FINAL DRAFT PROPOSALS (Pages 3 - 398)**

(Director of Governance) To consider the attached Final Draft of the Constitution.

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# CONSTITUTION

*Epping Forest District Council*

[www.eppingforestdc.gov.uk](http://www.eppingforestdc.gov.uk)



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Officer:**

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**Publish Date**

Tuesday, 26 April 2016

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To be completed.

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# Part 1

**Summary and Explanation**

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## **PART 1 - SUMMARY AND EXPLANATION**

### **The Council's Constitution**

1. 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?**

2. The Constitution itself is divided into 17 articles (see Part 2) which set out the basic rules governing the Council's business.

3. 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.

4. 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, Revision and Suspension of the Constitution of the Constitution
17. Access to Information

5. 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**

6. 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.

7. 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.

8. 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**

9. 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.

10. 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**

11. 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.

12. 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.

13. 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**

14. 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**

15. 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.

16. 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.

17. 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;

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

19. 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 13 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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# Part 2

## The Articles

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## **ARTICLE 1 - THE CONSTITUTION**

### **Powers of the Council**

1. The Council will exercise all its powers and duties in accordance with the law and this Constitution.

### **The Constitution**

2. This Constitution, its Articles and all its appendices, is the Constitution of the Epping Forest District Council.

### **Purpose of the Constitution**

3. The purpose of the Constitution is to:
  - (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
  - (b) support the active involvement of citizens in the process of local authority decision-making;
  - (c) help councillors represent their constituents more effectively;
  - (d) enable decisions to be taken efficiently and effectively;
  - (e) create an effective means of holding the Council to public account in terms of the decisions that it makes;
  - (f) ensure that no one will review or scrutinise a decision in which they were directly involved;
  - (g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
  - (h) provide a means of improving the delivery of services to the community.

### **Interpretation and Review of the Constitution**

4. Where the Constitution permits the Council to choose between different courses of action, it will always choose that option which fulfils the purposes stated above, or their aims and objectives. Such choice will be made by reference to the option which the Council considers to be the most appropriate in the circumstances.
5. The Council will monitor and evaluate the operation of the Constitution.

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## ARTICLE 2 - MEMBERS OF THE COUNCIL

### 1. Composition and eligibility

- (a) **Composition** The Council will comprise 58 members otherwise called councillors. One or more councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission for England and approved by the Secretary of State;
- (b) **Eligibility** Any person over 18 who meets the eligibility requirements under Section 79 of the Local Government Act 1972 may stand for election as a Councillor;
- (c) **Chairman and Vice-Chairman** It is expected that the person appointed by the Council as Vice-Chairman of the Council shall normally be elected as the Chairman of the Council for the following Council year;

### 2. Election and Terms of Office for Councillors

Ordinary elections of the whole Council were held in 2002. Elections of a third (or as near as may be) of all Councillors are held on the first Thursday in May in each year and commenced in 2003 except that in 2005 and every following fourth year there will be no regular election. The terms of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

### 3. Roles and Functions of all Councillors

- (a) **Key Roles.** All councillors will:
  - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
  - (iii) develop effective systems for communication, liaison and consultation with the local community and individuals within it;
  - (iv) assist constituents with matters concerning services provided by the Council;
  - (v) act as the Council's appointees on outside bodies to ensure that the needs of the community are considered and to provide links with the Council;
  - (vi) maintain, develop and build upon good relationships between political and managerial processes;
  - (vii) provide a point of contact to media on appropriate ward issues to provide a clear well-informed response as required;
  - (viii) provide the link with the officers on constituency matters;

(ix) participate in Overview and Scrutiny and other Boards, Panels and Committees as appointed and be eligible for appointment by the Council to the Executive; and

(x) maintain the highest standards of conduct and ethics.

**(b) Rights and Duties**

(i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law

(ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.

(iii) For these purposes, "confidential" and "exempt" information are defined in Article 17 (Access to Information).

**4. Conduct**

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in this Constitution.

**5. Members' Charter**

The Members' Charter, setting out a range of undertakings between the Council and its members, is attached as an Appendix to Article 2.

**6. Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in this Constitution.

## APPENDIX

### 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 Director or Assistant ~~Head of Service~~ Director before approaching other 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 service reviews;
    - representing their constituents;
    - scrutinising Executive decisions;
    - participating in review of policy and procedure; and
    - exercising their right to challenge and call-in Executive decisions;
  - (g) to respond promptly to correspondence from Councillors and to provide dedicated administrative support;
  - (h) to provide suitable facilities for all members consistent with their communication and information needs; 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 may risk members being unable to participate fully in relevant decision making, particularly in relation to regulatory and planning committees;
  - (e) to respect the role of officers in running services;
  - (g) to avoid unreasonable or personalised criticism of officers or other members at public meetings or similar occasions, or to the press or to constituents;
  - (h) to adhere to the requirements of Standing Orders regarding visits to Council premises and dealings with individual staff; and
  - (i) to uphold the council's Code of Conduct at all times.
3. Breach of this Charter by members may result in reference to the Monitoring Officer.



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## **ARTICLE 3 – THE PUBLIC AND THE COUNCIL**

### **Public Rights**

1. The public have the following rights.

#### **(a) Voting and Petitions**

Any person entitled to vote in local authority elections for the District shall have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

#### **(b) Information**

The rights of the public to access information are set out in Article 17. Additionally, the public may:

- (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) attend meetings of the Executive (Cabinet or Cabinet Committee meetings) except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (iii) find out from the forward plan what key decisions will be taken by the executive and when;
- (iv) see reports and background papers, and any records of decisions made by the Council and the executive; and
- (v) inspect the Council's accounts and make their views known to the external auditor.

#### **(c) Participation**

The public have the right to participate in the Council's and the Cabinet's question time and contribute to investigations when invited by the Overview and Scrutiny Committees.

The public will also have the right to attend and address meetings of the Housing Appeals and Review Panel (on matters personal to them) and as applicant (or as an objector in accordance with the Council's policy) for planning consent at an Area Plans Sub-Committee, the District Development Management Committee or for any purpose agreed by the Council at a meeting of the full Council.

#### **(d) Complaints**

The public have the right to complain to:

- (i) the Council itself under its complaints scheme;
- (ii) the Ombudsman after using the Council's own complaints scheme; and

(iii) the Council's Monitoring Officer about a breach of the Councillors' Code of Conduct.

### **Public Responsibilities**

2. The public must not be violent, abusive or threatening to councillors or officers and must not wilfully damage property owned by the Council, councillors or officers. Any such behaviour may result in the applications of sanctions in accordance with its complainants policy or legal proceedings.

## ARTICLE 4 - THE FULL COUNCIL

### Terms of Reference

1. The Council, and only the Council, will exercise the following functions:
  - (a) Adoption of and changes to the Constitution;
  - (b) Approval of, adoption of and revisions to the policy framework and the budget. (The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits);
  - (c) Adoption of the following:
    - Asset Management Plan
    - Capital Strategy
    - Community Plan/Strategy
    - Corporate Plan
    - Crime and Disorder Reduction Strategy
    - Leisure and Cultural Strategy
    - Local Plan and plans and strategies which comprise the Plan
    - Economic Development Strategy
    - Housing Investment Programme
    - Local Transport Plan
    - Social Inclusion Strategy
    - Statutory Statement of Accounts (yearly)Other plans which it decides, as a matter of local choice, should be the responsibility of the Council to adopt or are otherwise required by statute.
  - (d) Approval of any application to the Secretary of State in respect of any Housing Land transfer, which includes but is not limited to, the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act 1985;
  - (e) Adoption of the Council's Code of Conduct;
  - (f) Subject to the urgency procedure, contained in the Access to Information Procedure Rules in Part 4 of the Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
  - (g) Election/Appointment of the Chairman and Vice-Chairman of the Council;
  - (h) Appointing the Leader of the Council;
  - (i) Appointments to Committees and Sub-Committees (including Chairmen and Vice-Chairmen) by recommendation of the Appointments Panel (if required) except

those relating to Executive functions which are the responsibility of the Leader of Council and those delegated to the Overview and Scrutiny Committee;

(j) Agreeing and amending the terms of reference for Committees, except those relating to Executive functions which are the responsibility of the Executive and those delegated to the Overview and Scrutiny Committee;

(k) Appointing representatives to outside bodies except those relating to executive functions which are the responsibility of the Leader of Council;

(l) Adopting an allowances scheme under Article 2 as set out in Part 6 of this Constitution and setting the allowances of the Chairman and Vice Chairman of Council;

(m) Confirming the appointment or dismissal of the Head of Paid Service;

(n) Agreeing proposals for redundancy of Chief Executive, Directors, Monitoring Officer, Deputy Monitoring Officer and Chief Financial Officer;

(o) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;

(p) All local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the executive;

(q) Approval of or changes to the scheme of Council delegation set out in Part 3 of this Constitution; and

(r) All matters that fall to the Council as set out in the Council procedure rules in Part 4 of this Constitution.

### **Council Meetings**

2. There are three types of Council meeting:

#### **(a) The annual meeting**

The annual meeting will take place within 21 days of the retirement of the outgoing councillors, no later than June each year.

The annual meeting will:

(i) elect a person to preside if the Chairman of the Council is not present;

(ii) elect the Chairman of the Council;

(iii) appoint the Vice-Chairman of the Council;

(iv) approve the minutes of the last meeting;

(v) receive any announcements from the Chairman of the Council;

(vi) elect the Leader of the Council;

(vii) be notified by the Leader of the Council of appointments to the Cabinet, on the establishment of Cabinet Committees and memberships, delegation of Executive responsibilities to Cabinet members and officers and appointments to outside organisations carrying out executive functions;

(viii) Receive a report from the Appointments Panel and determine those appointments that are the responsibility of the Council, including the Chairmen and Vice-Chairmen of Committees, Panels and Groups, and appointments to outside bodies;

(ix) agree the scheme of delegation of functions which are not the responsibility of the Leader of Council;

(x) approve a programme of ordinary meetings of the Council for the year;

(xi) consider any business set out in the notice convening the meeting;

**(b) Ordinary meetings**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

(i) elect a person to preside if the Chairman and Vice-Chairman are not present;

(ii) approve the Minutes of the last meeting;

(iii) receive any declarations of interest from members;

(iv) receive any announcements from the Chairman of the Council, the Leader of the Council and members of the Executive;

(v) receive questions from and provide answers to the public and members of the Council in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting in the following order:

1. Public Questions

2. Questions under Notice by Councillors

3. Questions by Councillors to the Leader of Council, Cabinet members and the Chairman of the Overview and Scrutiny Committee on written reports and on questions without notice on other matters in accordance with rules set out in the rules for questions set out in the Rules in Part 4 of this Constitution.

(vi) receive reports from the Leader of the Council on the appointment of a Deputy Leader, the Cabinet, Cabinet Committees, Responsibilities of Cabinet members, appointments to outside organisations which are the responsibility of the Executive and delegation of Cabinet functions to officers;

(vii) receive a report from the Leader of the Council on any delegation of executive functions to Joint Committees and local Committees;

(viii) receive written reports from the Leader of the Council, the Chairman of the Overview and Scrutiny Committee and each of the Portfolio Holders and

receive questions and answers on any of those reports or any matters falling within their area of responsibility;

- (ix) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
  - (x) consider motions;
  - (xi) consider any other business specified in the summons to the meeting, including consideration of proposals from the executive in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Committees for debate, including annual reports for both Overview and Scrutiny Committees and the Executive on their activities in April of each Council year;
  - (xii) any matter of public concern allocated to any ordinary Council meeting for the purpose of debate;
  - (xiii) deal with any items of business deemed by the Chairman as urgent business in accordance with Section 100B(4) of the Local Government Act 1972.
  - (xiv) debate and respond to petitions where the number of signatures meets or exceeds the trigger level contained in the Council's petitions scheme
- (c) Extraordinary meetings.**

An extraordinary meeting of the Council shall transact the business set out in the agenda but shall exclude motions and questions. Single Issue Council meetings will be an extraordinary meeting.

#### **Responsibility for Functions**

3. The Council will keep up-to-date the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive.

## **ARTICLE 5 - CHAIRING THE COUNCIL**

### **Introduction**

1. This article sets out the role, responsibilities and duties of the Chairman of the Council. The role, responsibilities and duties fall to the Vice-Chairman in the absence of the Chairman.

### **Election of Chairman of the Council**

2. The convention of the Council is to elect the Vice-Chairman to the office of Chairman of Epping Forest District Council in the year following immediately their term as Vice-Chairman. However, the individual elected to the office of Chairman of the Council shall always be elected on merit by the Council at its Annual meeting.

### **Appointment of Vice-Chairman of Council**

3. The appointment of the Vice-Chairman of the Council shall be undertaken by the Council on the basis of merit in accordance with the following provisions:
  - (a) nominees for the office of Vice-Chairman of the Council are required to submit a nomination form supported and signed by no fewer than 15 serving Councillors on the date when the Appointments Panel holds its first meeting in any municipal year;
  - (b) nominees for Vice Chairman of the Council may be a Councillor from any political group on the Council or any independent or unaffiliated Councillor;
  - (c) the nomination of candidates for the position of Vice-Chairman and the expression of support for any nomination may be notified to the co-ordinating member by electronic mail;
  - (d) all nominations shall be considered by the Appointments Panel for onward recommendation to the Annual Council meeting;
  - (f) If for any reason, a Vice-Chairman is unable to be elected as Chairman of the Council following their year as Vice Chairman, the procedure outlined in (a) to (c) above shall also apply to the election of a new Chairman. If it is not possible to submit a supported and signed nomination form by the date on which the Appointments Panel holds its first meeting in any municipal year, nominees for the office of Chairman of the Council are required to submit to the Proper Officer, a nomination form supported and signed by no fewer than 15 serving Councillors, by the date of the Annual Council meeting; and
  - (g) the Council may suspend the operation of the appointment process set out above at an Annual Council meeting by motion.

### **Chairing the Council Meeting**

4. The Chairman shall undertake the following duties:
  - (a) to determine that meetings of the Council are properly constituted and that a quorum of members is present;

- (b) to be informed as to the business and objects of meetings;
  - (c) to preserve order in the conduct of those present;
  - (d) to confine discussion within the limits required by the business to be determined and within a reasonable period of time;
  - (e) to rule on:
    - (i) the admission of any business raised as urgent business in accordance with Section 100B(4) of the Local Government Act 1972; and
    - (ii) the admissibility of motions and amendments put in debate by the Members' of the Council;
  - (f) to formulate summaries of those issues arising in debate for the consideration of the meeting;
  - (g) to adjudicate on points of order and personal explanation raised at meetings and other incidental issues;
  - (h) to determine the proper and most appropriate method of voting on any question before the Council;
  - (i) to put relevant questions to the meeting, secure orderly votes thereon and declare the result;
  - (j) to inform the Council whether he or she will vote on any matter to be determined;
  - (k) to give, if appropriate, a second vote or a casting vote in order to deal with an equality of votes in the circumstances set out in this Article;
  - (l) to adjourn any meeting of the Council should the circumstances justify or require it, having first of all taken such steps to establish that Members' of the Council support such action;
  - (m) to read out any motion to exclude the press and public from meetings and to seek the consent of the Council; and
  - (n) to sign the Minutes of Council meetings as a correct record, following approval by the Council.
5. In carrying out these duties, the Chairman shall at all times act in accordance with legal requirements as advised by the Chief Executive and/or the Monitoring Officer, shall take care to ensure that the rights of individual members shall at all times be protected and, in the conduct of meetings shall disregard considerations arising from political affiliation and shall always have regard to the civic dignity of the Council and the office of Chairman.

#### **Casting Vote**

6. If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a second or casting vote.

### **Civic/Ceremonial Role**

7. In the carrying out of civic duties on behalf of the Council, the Chairman shall at all times behave in a way consistent with the dignity of the office of Chairman and the policies of the Council.

The Chairman of Council as first citizen in the district and the representative of the Queen will take precedence in the absence of firstly the Lord Lieutenant of Essex and secondly the Chairman of Essex County Council. If the Chairman is invited to a function organised by or within the District he/she is always the Guest of Honour.

8. When the Chairman of Council is invited to carry out duties at an official Council function the following people should be invited to attend:
  - (i) the Chairman of the Committee or member of the Executive responsible for the function and if unavailable, the Vice-Chairman of the Committee shall deputise;
  - (ii) the Leader of the Council or a member of the Executive nominated by him;
  - (iii) members of the Council for the ward in question;
  - (iv) the Director responsible for the function;
  - (v) Parish Chairman or Town Mayor;
  - (vi) other members and officers agreed by the Chairman of Council, and
  - (vii) the Public Relations Manager or nominated officer will attend appropriate functions when the press are invited.

### **Absence of Chairman and Vice-Chairman at functions**

9. There may be occasions when the Chairman of the Council and Vice-Chairman of the Council cannot attend functions. In these circumstances, the Chairman of the Council shall nominate a past Chairman of the Council or other member to act on his/her behalf at any such event.

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## **ARTICLE 6 - OVERVIEW AND SCRUTINY COMMITTEE**

### **Role and Responsibilities**

1. The Council will appoint one Overview and Scrutiny Committee that will have sole responsibility to discharge the functions under Sections 9F and 9FA to 9FI of the Local Government Act 2000, as relevant to the Council's statutory duties and responsibilities.
2. The work of the Overview and Scrutiny Committee shall cover all services, insofar as they relate to the Council or other public bodies providing services within the District. The scrutiny of health and social care services will normally be reserved to Essex County Council. The Council will undertake scrutiny activity in these areas only with the agreement of the County Council.
3. Party political whips will not be applied to the functions of the Overview and Scrutiny Committee.

### **Form and Composition**

4. Membership of the Overview and Scrutiny Committee will be appointed by the Council at its annual meeting each year.
5. All councillors except members of the Executive may be members of the Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision on which he/she has previously been directly involved.
6. The Overview and Scrutiny Committee shall be entitled to recommend to the Council the appointment of appropriate persons as non-voting co-optees.

### **Rights of Overview and Scrutiny Committee Members to Documents**

7. In addition to their rights as councillors, members of the Overview and Scrutiny Committee have the additional right to documents and to notice of meetings, as set out in Article 17 (Access to Information) of the Constitution.
8. Nothing in this paragraph prevents more detailed liaison between the Executive and the Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

### **Role of the Overview and Scrutiny Committee**

9. The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules of the Constitution.
10. In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee may make proposals to the Executive in so far as they relate to matters within its terms of reference.
11. The Overview and Scrutiny Committee may hold enquiries and investigate options for future direction in policy development and may appoint advisers and assessors to assist them in this process. The Committee may hold site visits, conduct public surveys, hold public meetings, commission research and do any other things that it considers reasonably

necessary to inform its deliberations. The Committee may ask witnesses to attend its meetings to address members on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

12. In carrying out any work within its terms of reference, the Overview and Scrutiny Committee may refer all or part of such matters to a Select Committee or a Task and Finish Panel for consideration. Such select committees and task and finish panels are sub-committees of the Overview and Scrutiny Committee.
13. The Overview and Scrutiny Committee shall receive a verbal report from the relevant Portfolio Holder or appropriate lead officer after three months of the completion of any scrutiny review, indicating whether recommendations from the review have been agreed or modified. After six months the Portfolio Holder or lead officer will give a further report to the Committee on progress with the implementation of such recommendations.

### **Specific Functions**

#### **(a) Scrutiny**

14. The Overview and Scrutiny Committee may:
  - (a) review and scrutinise the decisions made by and performance of the Executive and Committees and Council officers both in relation to individual decisions and over-time;
  - (b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
  - (c) question members of the Executive, the Chief Executive and Directors about their decisions and performance;
  - (d) make recommendations to the Executive and appropriate Committees and the Council arising from the outcome of the scrutiny process;
  - (e) review and scrutinise the performance of other bodies operating in the district and invite appropriate organisations to address the Committee about their activities and performance; and
  - (f) question and gather evidence from any person or organisation (with their consent).

#### **(b) Methods**

15. For the purposes of scrutiny, the Overview and Scrutiny Committee may:

- (a) undertake such work itself; or
- (b) refer matters to an appropriate Select Committee or Task and Finish Panel.

#### **(c) Finance**

16. The Overview and Scrutiny Committee may exercise overall responsibility for its finances made available by the Council.

#### **(d) Officers**

17. The Overview and Scrutiny Committee may exercise overall responsibility for the work programme of the officers employed to support its work.

### **Proceedings of the Overview and Scrutiny Committee**

#### **(a) Access for Public and Press**

18. All meetings of the Overview and Scrutiny Committee shall be held in accordance with Article 17 (Access to Information) of the Constitution.

#### **(b) Business to be conducted at each ordinary meeting**

19. The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out at Appendix 1 to this Article. At each meeting of the Committee, the following business will be conducted:

- (a) consideration of the minutes of the previous meeting;
- (b) declarations of interest (if any);
- (c) consideration of any matter referred to the Committee for a decision in relation to a call-in (if any);
- (d) responses of the Executive to reports of the Overview and Scrutiny Committee (if any);
- (e) questions or requests by members of the public to address the Committee on any agenda item in accordance with the Overview and Scrutiny Procedure Rules; and
- (f) the business otherwise set out on the agenda for the meeting.

#### **(c) Agenda items**

20. Any member of the Overview and Scrutiny Committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting. Any other member of the Council may also give written notice to the Proper Officer that he/she wishes an item to be included on the agenda for the next meeting of the Committee.

#### **(d) Requests to address the Overview and Scrutiny Committee**

21. Any member of the public or a representative of another organisation may address the Overview and Scrutiny Committee on any agenda item (except those dealt with in private session as exempt or confidential business) due to be considered at a meeting. The following rules shall apply to such requests:
  - (a) requests must relate to an existing agenda item;
  - (b) requests must not raise new business for the meeting concerned;
  - (c) all requests must be notified to the Council by no later than 4.00pm on the day of the meeting;

- (d) requests accompanied by proposals to circulate written material must be received five clear days before the meeting in time to be sent to Overview and Scrutiny Committee members in advance of the meeting;
- (e) requests need not be in writing;
- (f) a maximum of two persons shall be allowed to address the Committee on any one agenda item;
- (g) a time limit of 3 minutes per speaker shall apply;
- (h) the Overview and Scrutiny Committee shall be able to ask questions on any comments made by persons addressing the Committee;

**(e) Questions**

- 22. Members of the public may ask questions of the Chairman of Overview and Scrutiny Committee at ordinary meetings of the Committee, in accordance with the procedure set out in the Council procedure rules set out in Part 4 of the Constitution.
- 23. The Chairman of the Committee shall have discretion to limit the number of persons wishing to address the Committee or ask questions, if it is considered that the number of such speakers would unduly delay the proper despatch of business at any meeting.
- 24. The procedures for addressing the Overview and Scrutiny Committee or asking questions of the Chairman of the Committee, do not apply to Select Committees or Task and Finish Panels.

**(f) Attendance by others**

- 25. The Overview and Scrutiny Committee, a Select Committee or a Task and Finish Panel may invite any person, including residents, stakeholders, members and officers of other organisations to address it, or to discuss issues of local concern and/or answer questions.
- 26. Where such persons are invited to give evidence, meetings will be conducted in accordance with the following principles:
  - (a) the scrutiny review will be conducted fairly and all members will be given the opportunity to ask questions of attendees, and to contribute and speak; and
  - (b) the review will be conducted so as to maximise the efficiency of the investigation or analysis.
- 27. Following the completion of any scrutiny review, the Overview and Scrutiny Committee, Select Committee or Task and Finish Panel shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings publically available.

**(g) Members and officer giving account**

- 28. The Overview and Scrutiny Committee, a Select Committee or a Task and Finish Panel may require any member of the Cabinet, the Chief Executive or a Director to attend before it to explain matters within his/her areas of responsibility.

29. Where any member or officer is required to attend the Overview and Scrutiny Committee, a Select Committee or Task and Finish Panel under this provision, the Chairman will inform the Chief Executive, who shall inform the member or officer in writing giving at least 14 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which the member or officer is required to attend to give account and whether any papers are required to be produced for the Committee.
30. It is the duty of those persons to attend if so required. Where, in exceptional circumstances, the member or officer is unable to attend on the required date, the Overview and Scrutiny Committee, Select Committee or Task and Finish Panel concerned shall, in consultation with the member or officer, arrange an alternative date for attendance not less than 14 days from the date of the original attendance.

### **Work Programme**

31. The Overview and Scrutiny Committee shall approve an annual overview and scrutiny work programme at the first meeting of each municipal year.
  - (a) **Development**
32. In determining the contents of the work programme, the Committee will:
  - (a) seek proposals for inclusion from all Members of the Council through the Council Bulletin and from the public including via the Council's website;
  - (b) invite the Leader of the Council to attend its first meeting of each municipal year to present the Executive's programme of Key Decisions (the Cabinet Forward Plan) for the following year, to answer questions on the plan and to indicate where appropriate work on the Cabinet's behalf could be undertaken by the Committee;
  - (c) review the achievement of the overview and scrutiny work programme for the previous year;
  - (d) identify any external organisations to be scrutinised during the coming year;
  - (a) review all proposals submitted for inclusion in the work programme to ensure that they relate to the Council's Policy Framework, including the Corporate Plan and the Cabinet Forward Plan;
  - (b) ensure the agreed work programme has sufficient member and officer resources to support it;
  - (c) identify in advance any budgetary provision required for specific projects;
  - (d) ensure that the work programme is properly prioritised.
  - (e) allocate appropriate time limits for each activity within the work programme;
  - (f) ensure that any projects which do not find a place in the work programme are added to a reserve programme for further review;
33. The Committee shall review the achievement of the overview and scrutiny work programme on a regular basis during the year.

**(b) Cabinet Business**

34. The Overview and Scrutiny Committee will review the Executive's programme of Key Decisions (the Cabinet Forward Plan) at each meeting, to enable the identification of appropriate matters for the overview and scrutiny work programme.

**(c) Urgent Items and New Proposals**

35. Where new proposals or matters of urgency arise during the currency of the annual work programme, the Committee may:
- (a) determine that any new project should be added to the programme and adjust the remainder of the programme accordingly; or
  - (b) determine that a new project should be deferred for review when the next work programme is considered; or
  - (c) decline to accept an additional project and give grounds for so doing.
36. All proposals for additional or urgent projects shall be submitted in writing and presented at a convenient meeting of the Overview and Scrutiny Committee by the member or officer so proposing.

**(d) Annual Report**

37. The Overview and Scrutiny Committee shall submit an annual report to the Council at the beginning of each municipal year on the overview and scrutiny work undertaken during the preceding year.

**(e) Motions at Council Meetings**

38. Any motion adopted by the Council which relates to the responsibilities of the Overview and Scrutiny Committee shall stand referred to the Committee for consideration. In determining how to respond to the motion, the Overview and Scrutiny Committee shall consider whether the proposal should be incorporated in the work programme or held for future consideration in accordance with the procedures outlined in above. The Committee shall advise the Council of the action taken on such motions.
39. The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council or the Executive to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report its findings and any recommendations to the Council or the Executive. The Executive shall consider the report of the Overview and Scrutiny Committee within one month of receiving it and the Council within two months of receiving it or, in either case, as soon as is reasonably possible.

**Reports of the Overview and Scrutiny Committee**

**(a) Executive matters not delegated to the Cabinet, a Cabinet Committee or a Portfolio Holder**

40. The Overview and Scrutiny Committee may prepare a formal report for consideration by the Executive, if its recommendations are consistent with the existing budgetary and policy

framework, or the Council if its proposals would require a departure from, or a change to, the budget and policy framework.

41. The Executive will have six weeks or as soon as reasonably practical thereafter in which to respond to the overview and scrutiny report, and the Council shall not consider it within that period. When the Council considers any referral from the Overview and Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Executive to the overview and scrutiny proposals.
42. If the Overview and Scrutiny Committee cannot agree on a single final report to the Council or Executive as appropriate, up to one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.
43. Reports by the Overview and Scrutiny Committee shall normally be presented by the Chairman of the Committee, unless he/she determines that it would be beneficial for the Chairman of a Select Committee or Task and Finish Panel to present the report instead, or if a joint presentation is considered appropriate.

**(b) Executive Matters Delegated to an Executive Committee or Executive Member**

44. Where the Overview and Scrutiny Committee prepares a report for consideration by the Executive in relation to a matter where the Executive has delegated decision making powers to an individual Portfolio Holder or a Cabinet Committee, the Overview and Scrutiny Committee will report to that individual or committee. If the Portfolio Holder or Executive Committee with delegated decision making powers does not accept the recommendations of the Overview and Scrutiny Committee, these will be referred to the next available meeting of the Cabinet for debate before the Portfolio Holder exercises his/her decision making power and responding to the report in writing to the Overview and Scrutiny Committee. The Executive member or Committee to whom the decision making power has been delegated will respond to the Overview and Scrutiny Committee at the first available meeting.

**Call-In**

45. When an executive decision is made by the Cabinet, a Portfolio Holder or a Cabinet Committee, or a key decision is made by an officer with delegated authority, such decision will be published in a notice specifying when the decision will come into force and be implemented, unless it is called-in.
46. These call-in arrangements shall not apply to decisions on non-executive functions made by any decision-making body. Three members of the Overview and Scrutiny Committee or any five members of the Council have the right to call in an Executive decision. Any such request shall be made in writing in the prescribed format and must be delivered to the Chief Executive.
47. The Chief Executive shall call-in a decision for scrutiny if so requested in accordance with the requirements below and shall then notify the decision-taker of the call-in. The Chief Executive shall consult with the Chairman of the Overview and Scrutiny Committee who will determine whether consideration of the call in will be referred to:
  - (a) the next ordinary meeting of the Overview and Scrutiny Committee; or
  - (b) the relevant Select Committee; or
  - (c) an appropriate Task and Finish Panel.

48. If consideration of any executive decision is likely, under these rules, to be delayed for more than two weeks, the Chairman of the Overview and Scrutiny Committee may require an extraordinary meeting of the Committee to be convened at an earlier date if the circumstances appear to warrant this.
49. If, having considered the decision subject of the call-in, the Overview and Scrutiny Committee (or Select Committee or Task and Finish Panel) is still concerned about it, it may, subject to the procedures outlined in this Article, refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns, or refer the matter to full Council. If referred to the decision maker he/she shall reconsider within a further five working days, or in the case of a Cabinet decision, as soon as practically possible amending the decision or not, before adopting a final decision.
50. If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no power to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole or a committee of it, a meeting will be convened to reconsider within fourteen working days of the Council request. Where the decision was made by an individual, the individual will reconsider within fourteen working days of the Council request.
51. If the Council does not meet, or if it does but does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
52. In the operation of these call-in arrangements, members of the Council shall also adhere to the terms of the Protocol set out in Appendix 2 to this Article.

### **Call-In and Urgency**

53. The call-in procedure shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay is likely to be caused by the call-in process would seriously prejudice the Council's or the public interest. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call in. The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Chief Executive or their nominee's consent shall be required.
54. Decisions taken as a matter of urgency must be reported to the next available ordinary meeting of the Council, together with the reasons for urgency.

## APPENDIX 1

### OVERVIEW AND SCRUTINY PROCEDURE RULES

#### Overview and Scrutiny Committee

1. The functions of the Overview and Scrutiny Committee shall be as follows:
  - (a) to review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
  - (b) to make reports and/or recommendations to the full Council and/or the executive in connection with the discharge of any functions;
  - (c) to review corporate strategies;
  - (d) to ensure that the decisions/actions of the Cabinet accord with the Council's policies and budget;
  - (e) to monitor and scrutinise the financial performance of the Council and making recommendations to the Cabinet in relation to annual revenue and capital guidelines, bids and submissions;
  - (f) when required, to question members of the Cabinet or other Committees and officers about their decisions and performance whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
  - (g) to make recommendations to Cabinet and appropriate Committees and the Council arising from the outcome of the overview and scrutiny process;
  - (h) to consider any matter affecting the Epping Forest District or its residents
  - (i) to review, scrutinise and monitor the performance of other public bodies active in the District;
  - (j) to question and gather evidence from any person (including members, officers and others) on issues falling within the functions of the Committee;
  - (k) to determine terms of reference, memberships (including the appointment of Chairman and Vice-Chairman) and work programmes for all Select Committees and Task and Finish Panels;
  - (l) to scrutinise executive decisions;
  - (m) to exercise the right to call-in, for reconsideration of decisions made but not yet implemented by the Executive;
  - (n) to consider and make responses to executive decisions which are called in either as a Committee or through referral to a Select Committee or Task and Finish Panel;
  - (o) to monitor the effectiveness of the call-in procedure, reviewing the number and reasons for call-in and making recommendations to the Council on any changes required to improve operation of the process;

- (p) to monitor and scrutinise the Cabinet Forward Plan (the Key Decision List);
- (q) to review the implications of Government consultation documents where requested by members;
- (r) to receive presentations from the Leader of the Council outlining plans for the year ahead and reporting performance in the previous Council year;
- (s) to consider requests from the Cabinet for scrutiny involvement in policy development and determining appropriate action;
- (t) to consider petitions where the number of signatures meets or exceeds the trigger level contained in the Council's Petitions Scheme and make recommendations as appropriate; and
- (u) to review, when requested by the petition organiser, the Council's response to any petition which they consider has not been dealt with properly including, if appropriate, investigating, making recommendations to the Council or Executive or arranging for the matter to be considered at a meeting of the full Council;

### **Select Committees**

2. Select committees may be established on an annual basis by the Overview and Scrutiny Committee.
3. Select committee status will generally be restricted to those activities of a recurring or cyclical character which require a longer term involvement by members.
4. The Overview and Scrutiny Committee shall determine the number and terms of reference of the select committees and shall review whether they should continue in being at the first meeting of each municipal year.
5. Select Committees will:
  - (a) adhere to an annual work programme agreed by the Overview and Scrutiny Committee;
  - (b) have a chairman and vice-chairman appointed by the Overview and Scrutiny Committee;
  - (c) have memberships which reflect pro-rata requirements and the lowest number of members required to achieve cross-party representation, whilst allowing the inclusion of members who are not members of a political group or are not members of the Overview and Scrutiny Committee;
  - (d) have memberships which represent the minimum number necessary to adhere to their work programmes;
  - (e) be able to seek delegated authority from the Overview and Scrutiny Committee, to vary their terms of reference and work programme according to circumstances;

- (f) report (through the chairman of the select committee) to each meeting of the Overview and Scrutiny Committee on progress with the respective work programme and on any recommendations for consideration;
  - (g) consider any matter referred by the Overview and Scrutiny Committee, the Cabinet or a relevant Portfolio Holder, and report and make recommendations directly to the Committee, the Cabinet or relevant Portfolio Holder when appropriate;
  - (h) in the circumstances set out in (f) above, the report shall be submitted in the name of the select committee and presented by its chairman, unless the work of more than one select committee is involved, in which case any report to another Council body will be in the name of the Overview and Scrutiny Committee and presented by its Chairman;
  - (i) in the event that the submission of a select committee report to another Council body is required such that it cannot be considered by the Overview and Scrutiny Committee in accordance with paragraph (h) above, the select committee report may proceed for consideration subject to prior consultation with the Chairman of that Committee as to the reasons for urgency;
  - (j) extend a standing invitation to relevant portfolio holder(s) to attend select committee meetings to answer questions and provide information on any matters affecting their portfolios which are under consideration; and
  - (k) hear questions and presentations by members of the public or external organisations which are relevant to the work of the select committee concerned.
6. Any member of the Council may be a member of a select committee, save that any Cabinet member may not be a member of a select committee which deals directly with matters within the responsibilities of their portfolio.
  7. Any member of the Council shall be able to attend any meeting of a select committee and be notified of the publication of the agenda.
  8. The provisions of Operational Standing Order 14 shall apply to the select committees.

### **Task and Finish Panels**

9. Task and Finish Panels may be established by the Overview and Scrutiny Committee in order to deal with ad-hoc projects or reviews included in the annual work programme for overview and scrutiny.
10. Task and Finish Panel status will be restricted to those activities which are issue-based, time limited and non-cyclical in character and have clearly defined objectives.
11. Task and Finish Panels will:
  - (a) have terms of reference, membership and a work programme approved by the Overview and Scrutiny Committee;
  - (b) have a Chairman and Vice-Chairman appointed by the Overview and Scrutiny Committee;

- (c) have memberships which need not be based on pro-rata rules and be flexible as to the number of Councillors appointed to membership. There will be no restriction on the numbers appointed;
  - (d) have memberships which represent the minimum number necessary to adhere to their work programmes;
  - (e) be able to make proposals to the Overview and Scrutiny Committee for the variation of their terms of reference or work programme;
  - (f) be able to seek delegated authority from the Overview and Scrutiny Committee for the variation of their terms of reference and work programmes according to circumstances;
  - (g) report through the Panel Chairman at each meeting of the Overview and Scrutiny Committee on progress with their work programme and on any recommendations for consideration;
  - (h) be able, after consideration by the Overview and Scrutiny Committee, to report to the Council, the Cabinet, a Cabinet Committee, a Portfolio Holder or any other Council body;
  - (i) in the circumstances set out in (h), the report shall be submitted in the name of the Panel and presented by its Chairman, unless the work of more than one Panel is involved, in which case any report to another Council body will be in the name of the Overview and Scrutiny Committee and presented by its Chairman;
  - (j) in the event that the submission of a Panel report to another Council body is required such that it cannot be considered by the Overview and Scrutiny Committee in accordance with paragraph (h) above, the Panel report may proceed for consideration subject to prior consultation with the Chairman of the Committee as to the reasons for urgency;
  - (k) extend a standing invitation to relevant portfolio holder(s) to attend Panel meetings to answer questions and provide information on any matters affecting their portfolios which are under consideration; and
  - (l) hear questions and presentations by members of the public or external organisations which are relevant to the work of the Panel concerned.
12. Any member of the Council may be a member of a Task and Finish Panel, save that a member of the Cabinet may not be a member of any Panel which deals directly with matters within the responsibilities of their portfolio.
13. No Task and Finish Panel shall be comprised of members of a single political group only.
14. Any member of the Council shall be able to attend any meeting of a Task and Finish Panel.

## APPENDIX 2

### PROTOCOL ON CONSIDERATION AND REPORTING ON EXECUTIVE DECISIONS CALLED IN BY OVERVIEW AND SCRUTINY

#### Purpose of Protocol

1. The purpose of this protocol is:
  - (a) To codify how the Overview and Scrutiny Committee (or a delegated Select Committee or Task and Finish Panel) should deal with call-in items; and
  - (b) To codify how the Executive should respond to reports by Overview and Scrutiny on decisions which have been called in.

#### Validation of Call-In

2. All call-in requests shall be made in writing in accordance with the procedure set out in Article 6 of the Constitution. Call-in requests may be made only by non-executive members of the Council. The call-in request shall be validated by the Chief Executive and referred to the Overview and Scrutiny Committee for consideration in accordance with the provisions of Article 6 of the Constitution (Overview and Scrutiny).

#### Consideration of Call-In Items by Overview and Scrutiny Committee

3. Consideration of a call-in shall be the responsibility of the Overview and Scrutiny Committee, which will decide whether to consider the issue itself or to direct a Select Committee or a Task and Finish Panel to undertake it and report back to the decision maker. Call-in items shall be referred to the next available date for the Overview and Scrutiny Committee (or Select Committee or Task and Finish Panel). The provisions of the Overview and Scrutiny Rules in the Constitution will apply to call-in requests which need to be dealt with more quickly.
4. At its meeting, the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) will receive:
  - (a) copies of all documentation submitted to the Executive on which the decision was based; and
  - (b) a copy of the written notification of the call-in including the names of the relevant Councillors who requested the call-in and their grounds for so doing.
5. The relevant Portfolio Holder and at least one of the members who requested the call-in and who shall act as spokesperson for those members, shall attend the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) meeting.
6. The call-in shall be considered in the following manner:
  - (a) the lead signatory to the call-in of the decision shall describe his/her concerns;
  - (b) the Portfolio Holder responds;

- (c) the remaining signatories then speak in support of the call-in. If there are more than five signatories, only the lead member and the remaining two (or four) Councillors on the call in notification shall be called to speak if they wish to do so. Any other Councillor whose name appears on the call in notification shall be able to speak during the general debate on the item (see (e) below));
- (d) the Portfolio Holder responds;
- (e) the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) will then debate the issues involved;
- (f) the lead signatory will then have an opportunity to respond to the debate;
- (g) the Portfolio Holder shall then have an opportunity to respond to the debate. The Chairman of the meeting shall have the discretion to vary the way in which evidence is gathered including speakers and public participation if appropriate;
- (h) following the debate, the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) has the following options:
  - (i) to confirm the decision, which may then be implemented immediately; or
  - (ii) to refer the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or
  - (iii) to refer the matter to full Council in the event that the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) considers the decision to be contrary to the policy framework of the Council or contrary to, or not wholly in accordance with, the budget;
- (i) If it appears that the review of a decision of the Executive cannot be completed at one meeting, the Executive or decision taker will be informed, indicating any preliminary views the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) may have and a proposed timescale for the completion of the review. The Chairman of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) shall, if necessary, consult with the Leader of the Council regarding the urgency of the proposed decision or any other related matter;
- (j) The Chairman of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) shall sum up the recommendations to be submitted to the Executive and these shall be incorporated in full in the Minutes or report of the meeting;
- (k) In cases where the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) determines that a review of the decision is not justified or that, having reviewed the decision of the Executive, it has no adverse comment to make, the Committee (or Select Committee/Task and Finish Panel) shall ensure that its decision is published in the Council Bulletin;
- (l) In the circumstances outlined in (k) above, the decision of the Executive or decision-taker may be implemented with effect from the date of that meeting;
- (m) A report detailing any appropriate recommendations of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) shall be reported to the decision-taker;

- (n) In presenting the recommendations of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) the Chairman may make general comments on the Committee's/Panel's recommendations, answer questions and respond to comments or new proposals made by the Executive at that meeting;
- (o) The report of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) shall be sent in draft to all of its Members for approval prior to submission to the decision-taker; and
- (p) Minority reports may be made by members of Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) in accordance with the Protocol for that purpose.

### **Consideration of Reports on Call In Items by the Executive**

7. The report of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) will be referred in the first instance to the relevant Portfolio Holder(s) for the executive function concerned.
8. If the Executive decision is one which the Portfolio Holder(s) has delegated powers to make, he/she shall consider the written proposals of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) and must consult the Chairman of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) if they are minded to accept or reject them. In doing so, the Portfolio Holder will ensure that, in recording that decision, the reasons for accepting, rejecting or amending those views are set out in the decision notice.
9. If the Executive decision is one which the Executive itself or a Committee of the Executive (acting under delegated powers) is competent to take, the relevant Portfolio Holder will consider the proposals of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) and refer them, with their written response, to the decision making body concerned.
10. At a meeting of the Executive or of any Committee of the Executive, the following documentation shall be submitted:
  - (a) the agreed report of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) and any other supporting documents considered by it;
  - (b) a report of the Portfolio Holder indicating the response to the proposals of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) indicating the options available and recommendation for acceptance, rejection or alteration of those proposals with reasons; and
  - (c) any other information.
11. The Executive or Committee of the Executive shall consider the matter as follows:
  - (a) the Chairman of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) shall present the views and recommendations of the Committee or Panel and respond to questions, make general comments and respond to new proposals as appropriate;

- (b) the relevant Portfolio Holder shall then respond by presenting his report and recommendations on the proposals of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel);
  - (c) the Executive (or Committee thereof) shall consider the original decision, the views of the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) and any proposals by the Portfolio Holder; and
  - (d) the Executive (or Executive Committee) will make a final decision on whether to re-affirm the original decision, amend the original decision or substitute a new decision. This decision shall be recorded in the minutes of the meeting together with supporting reasons.
12. Where a Committee of the Executive is required to report to the full Executive on any matter, it shall submit a recommendation on action proposed to the Executive as part of the minutes of the meeting.

### **Implementation of Decisions When Cabinet Control or Membership Changes**

13. Notwithstanding the provisions of paragraphs 6(g) and 6(h) above, where political control of the Cabinet or Cabinet membership changes following the annual Council meeting each year, any decision made by the Executive and supported by the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) following a call-in but not implemented before the changes occur, shall stand referred to the Cabinet for further review before action is taken.

### **Consideration of Call-In Reports of Overview and Scrutiny Committees made to the Full Council**

14. In some circumstances, the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) may choose to refer the results of the consideration of call-in items to the full Council, rather than the Executive in those instances set out in paragraph 6 (h)(iii) above and 15 below. With any necessary modification the call-in shall be dealt with at the Council meeting in accordance with paragraphs 7-11 above.
15. In considering whether to report to the full Council, the Overview and Scrutiny Committee (or Select Committee/Task and Finish Panel) shall take account of the advice of the Proper Officer on:
- (a) whether the Council may properly determine the matter if the function is delegated to the Executive;
  - (b) whether the Executive decision affects the policy or budget framework of the Authority and should properly be determined by the Council;
  - (c) whether the Executive decision relates to a matter which either reserved to the full Council by the constitution or by resolution; and
  - (d) any other advice which indicates that, for whatever reason, a report to the Executive is more appropriate to the proper despatch of Council business.

### **Restriction on Call-In**

16. The Overview and Scrutiny Committee shall at all times be aware that the decisions of the regulatory or non-executive bodies of the Council are not subject to call-in.
17. The call-in procedure shall also not apply to any recommendation by the Cabinet to the full Council.

### **Withdrawal or Modification of Call-In**

18. A valid call-in may be withdrawn at any time by the lead signatory. The lead signatory to a validated call-in or the relevant Portfolio Holder may request a meeting with the Chairman of the Overview and Scrutiny Committee prior to the call-in being considered by the Committee in order to discuss the following:
  - (a) the management of the call-in debate at the meeting of the Committee (or Select Committee/Task and Finish Panel) concerned;
  - (b) the possibility of reaching agreement on removing any objections to the decision in question which are raised in the call-in request; and
  - (c) the withdrawal of a call-in.
19. Where the lead signatory agrees to withdraw or modify a call-in the Councillor concerned shall notify his fellow signatories as soon as practicable and the circumstances shall be reported to the Overview and Scrutiny Committee.
20. If a call-in is withdrawn, the circumstances will be notified to all members of the Council through the Council Bulletin.
21. In cases where a Portfolio Holder has agreed to modify a decision, he or she shall issue a revised decision notice or refer the proposal back to the Cabinet, if the latter made the original decision. A protocol for the handling of these arrangements for the withdrawal or modification of a call-in is included as an annex to this Appendix.

## **PROTOCOL ON CONSIDERATION AND REPORTING ON EXECUTIVE DECISIONS CALLED IN BY OVERVIEW AND SCRUTINY**

### **ANNEX - WITHDRAWAL OR MODIFICATION OF CALL-IN**

1. The Council's requirements for a validated 'Call-In' are set out within the Constitution. A valid call-in may be withdrawn at any time by the lead signatory.
2. In accordance with these requirements, the lead signatory to a valid call-in, or the relevant Portfolio Holder, may request a meeting with the Chairman of the Overview and Scrutiny Committee prior to the call-in being considered by the Committee (if necessary), in order to discuss the following:
  - (a) the possibility of reaching agreement on removing any objections to the decision in question which are raised in the call-in request; or
  - (b) the withdrawal of a call-in; or
  - (c) the management of the call-in debate at a meeting of the Overview and Scrutiny Committee.
3. Once formally requested by either the lead signatory to the call-in or the relevant Portfolio Holder, the meeting with the Chairman of the Overview and Scrutiny Committee will be held as soon as possible following the receipt of a valid call-in. Arrangements for the meeting will be made by the Democratic Services Section, in consultation with the Chairman of the Overview and Scrutiny Committee.
4. When convened, the meeting will be chaired by the Chairman of the Overview and Scrutiny Committee. The proceedings of the meeting will be conducted in a formal manner in order to ensure that proper consideration is given to the call-in. The meeting will be supported by the relevant chief officer relating to the decision subject of the call-in, together with appropriate Democratic Services officers. The lead signatory may be accompanied at the meeting by no more than one other member signatory to the call-in. Informal notes of the meeting will be taken by the Democratic Services Officer.
5. At the meeting, those in attendance will receive:
  - (a) copies of all documentation submitted to the cabinet or an individual Portfolio Holder on which the decision subject of the call-in was based;
  - (b) a copy of the written notification of the call-in, including the names of the relevant Councillors who have requested the call-in and their grounds for so doing; and
  - (c) any other relevant documentation.

#### **Procedure**

6. The following procedure will be adopted at the meeting:
  - (a) the lead signatory to the call-in will present the case for the reconsideration of the decision subject of the call-in, supported by the other member signatory as appropriate;

- (b) the Portfolio Holder will have the opportunity to ask questions of the lead signatory in relation to his/her proposal. The Chairman of the Overview and Scrutiny Committee may also ask questions of the lead signatory at this stage; and
  - (c) the Portfolio Holder responsible for the decision subject of the call-in will explain the reasons for the decision that has been made (either by the Cabinet or by the Portfolio Holder individually). The lead signatory to the call-in (and other supporting members present) will have the opportunity to ask questions of the Portfolio Holder in relation to the decision. The Chairman of the Overview and Scrutiny Committee may also ask questions of the Portfolio Holder at this stage.
7. Having considered the representations of the lead signatory (and the other signatory) to the call-in and the Portfolio Holder, the Chairman of the Overview and Scrutiny Committee will consider whether agreement has been reached on the removal of the objections made to the decision subject of the call-in. The lead signatory will determine whether the call-in can be withdrawn or modified as appropriate.
  8. In accordance with the Council's existing arrangements for the management of call-in requests, where the lead signatory agrees to withdraw or modify the call-in as a result of this procedure, he/she shall notify each of their fellow signatories as soon as practicable. The withdrawal or modification of the call-in shall also be reported to the Overview and Scrutiny Committee and, if a call-in is withdrawn, the circumstances will be notified to all members through the Council Bulletin. The Democratic Services Section will undertake these reporting requirements.
  9. If, in the opinion of the Chairman of the Overview and Scrutiny Committee, it has not been possible to reach agreement at the meeting on the removal of the objections to the decision in question, such that the call-in can be withdrawn, it will stand referred to the Overview and Scrutiny Committee for consideration, in accordance with the protocol set out in the Constitution.

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## **ARTICLE 7 - THE EXECUTIVE**

### **Role and Responsibilities**

1. 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.
2. Where the Leader or the Cabinet is responsible for an executive function, that function may be delegated pursuant to sections 9E to 9EB of the Local Government Act 2000 as set out in Part 3 of this constitution which sets out which individual members of the Cabinet, committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular executive functions.
3. Any function which is the responsibility of the Cabinet may not be discharged by the Council.
4. The Cabinet is responsible for determining the content of any plans and strategies not requiring the assent of the Full Council set out in Article 4.
5. The Cabinet is responsible for proposing to Council the adoption of plans and strategies reserved to the Council by statute or this Constitution.

### **Operation of the Executive**

6. The arrangements for the discharge and delegation of executive functions are set out Part 3 of this constitution and within this article. If they are not set out there, then the leader may decide how they are to be exercised in accordance with sections 9E to 9EB of the Local Government Act 2000, as amended.

### **Form and Composition**

7. The Cabinet will consist of between three and ten Councillors and will include the Leader of the Council appointed by the Council. The other members of the Cabinet will be appointed by the Leader of the Council and will include a Deputy Leader.

### **Leader**

8. The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:
  - (a) they resign from the office or as a Councillor; or
  - (b) they are disqualified from being a Councillor; or
  - (c) the next Annual Council meeting after completing his/her term of office as a Councillor or until such other date as the Council may specify; or
  - (d) they are removed from office by resolution of the Council; or
  - (e) if removed from office by virtue of any regulations made pursuant to the Local Government Act 2000 or the Localism Act 2011

NB: The person who is elected as Leader of the Council remains a member of the Council during the period that he or she is appointed as Leader of Council even if they

are not re-elected, except where the person ceases to be Councillor by virtue of resignation or disqualification.

### **Deputy Leader**

9. The Leader will appoint a Deputy Leader of the Council from among those Councillors appointed to the Cabinet. The person appointed as Deputy Leader shall, unless they resign as Deputy Leader or are disqualified from office, hold office until the end of any term of office of the Leader of the Council specified by the Council.
10. The Deputy Leader may be removed from office by the Leader of the Council if the latter thinks fit and the Leader must then appoint another person to be Deputy Leader.
11. If, for any reason, the Leader of Council is unable to act or that office is vacant, the Deputy Leader must act in the Leader of Council's place.

### **Other Executive Members**

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

### **Delegation by the Leader**

13. The Leader will periodically review Executive delegations and publish a written decision of changes made to delegations made for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document will contain the following information about executive functions:
  - (i) the extent of any authority delegated to executive members individually, including details of the limitation on their authority;
  - (ii) the terms of reference and constitution of such Cabinet Committees as the leader appoints and the names of executive members appointed to them;
  - (iii) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### **Leader and Deputy Leader – Unable to Act**

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

### **Portfolio Holder Assistants**

15. The Leader of the Council may appoint Portfolio Holder Assistants who shall –
  - (a) Assist the designated Portfolio Holders in shaping and developing the strategic priorities of the Council as it relates to the allocated portfolio.
  - (b) Assist the designated Portfolio Holders in monitoring performance in specified areas relating to the allocated portfolio.
  - (c) Where appropriate and where permissible under the Council's Constitution, represent the designated Portfolio Holders at meetings or visits.
16. Such appointments shall be at the discretion of the Leader. The term of office of any Portfolio Holder Assistants shall be for one year from the Annual Council meeting concerned but may be varied by the Leader at any time.
17. Portfolio Holder Assistants shall not be members of the Cabinet, or any Cabinet Committee and may not exercise any executive powers. Assistant Portfolio Holders may be invited to speak at Cabinet or Cabinet Committee meetings on matters where they assisted Portfolio Holders but may not vote.

### **Conflicts of Interest/Absence of Decision taker**

18. Any pecuniary or non-pecuniary interest arising from the exercise of an executive function, individually or collectively should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
19. The Leader may take a decision, direct another Portfolio Holder to do so, refer the matter for Cabinet decision or delegate to the decision to another officer where:
  - (i) The exercise of an executive function that has been delegated to an individual member or an officer gives rise to a pecuniary or non-pecuniary interest; or
  - (ii) The decision taker is unavoidably absent.

### **Meetings of the Cabinet (Executive)**

#### **(a) Access for Public and Press**

20. All meetings of the Cabinet and Cabinet Committees shall be held in accordance with the Access to Information Procedure Rules of this Constitution.

#### **(b) Application of Rules**

21. Meetings will be subject to those rules that are applied to the executive in the Rules section of this constitution.

#### **(c) Business to be conducted at each ordinary meeting**

22. At each meeting of the executive the following business will be conducted:
  - (i) Consideration of the minutes of the last meeting;
  - (ii) Declarations of interest, if any;

- (iii) matters referred to the executive (whether by the overview and scrutiny committee or by the Council) for consideration by the executive in accordance with the call-in provisions or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (iv) Consideration of reports from overview and scrutiny committees on items on the Cabinet Agenda;
- (v) Reports from individual members of the Executive, the Leader, any other member of Council or statutory officers (see provisions in Article 7.xx below). Proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation. ;
- (vi) Minutes from Cabinet Committees requiring approval; and
- (vii) Questions from members of the public in accordance with the Council's scheme.

**(d) Other items that can be put on the Cabinet agenda**

- 23. The Leader may put on the agenda of any executive meeting any matter which he/she wishes. The Proper Officer will comply with the leader's requests in this respect.
- 24. Any member of the Cabinet may require the Proper Officer to place an item on the agenda of the next available meeting of the Cabinet for consideration.
- 25. Any member of the Council may ask the Leader to put an item on the agenda of an Cabinet meeting for consideration, and if the leader agrees the item will be considered at the next available meeting. In the event that the Leader refuses to agree the request, the relevant member of the Council shall receive an explanation of that refusal and it will be published in the Council Bulletin.
- 26. The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of an executive meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an executive meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

**(e) Requests by the Public/Outside Organisations to Address the Cabinet**

- 27. Any member of the public or a representative of an outside organisation may address the Cabinet on any agenda item (except those dealt with in private session as exempt or confidential business) due to be considered at a meeting.
- 28. The following rules shall apply to such requests:
  - (i) requests must relate to any existing agenda item;
  - (ii) requests must not raise new business for the meeting concerned;

- (iii) all requests must be notified to the Council by no later than 4 pm on the day of the meeting;
- (iv) requests accompanied by proposals to circulate written material must be received five working days before the meeting in time to be sent to Cabinet members in advance of the meeting;
- (v) requests need not be in writing;
- (vi) a maximum of two persons shall be permitted to address the Cabinet on any one agenda item;
- (vii) a time limit of 3 minutes per speaker shall apply;
- (viii) the Cabinet shall be able to ask questions on any comments made;
- (ix) the Leader of the Council shall have discretion as to whether to limit the number of persons wishing to address the Cabinet if it is considered that the number of such speakers will unduly delay the proper despatch of business at any meeting.
- (x) this procedure shall not apply to Cabinet Committees.

**(f) Decisions taken by the Cabinet**

29. Decisions which have been delegated to the Cabinet will be taken at a meeting convened in accordance with the Access to Information Rules of this Constitution. Decisions taken shall meet all statutory requirements, based on all relevant factors including advice from relevant officers.

**Portfolio Holder Advisory Groups**

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

**Executive Committees**

31. The Cabinet and/or the Leader may, from time to time, appoint Committees comprising solely members of the Cabinet to assist in the carrying out of executive functions as defined in Part 3 of this Constitution. Such appointment decisions shall include membership, terms of reference and reporting procedures as necessary. These shall be reviewed periodically and re-appointed as appropriate.

Details of current Cabinet Committees and their Terms of Reference are set out in Appendix 2 to this Article.

**Action in Designated Emergencies**

32. The procedure governing action required to be taken in emergency situations is set out in Appendix 3 to this Article.

## **PORTFOLIO HOLDER ADVISORY GROUPS**

### **1. Purpose of Portfolio Holder Advisory Groups**

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

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

### **2. Limitations on the Operation of Advisory Groups**

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

**COMMITTEES OF THE EXECUTIVE - TERMS OF REFERENCE**

**1. FINANCE AND PERFORMANCE MANAGEMENT**

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

**2. ASSET MANAGEMENT AND ECONOMIC DEVELOPMENT CABINET COMMITTEE**

**Management of the Council-Owned Property Assets**

- 2.1 To consider and make recommendations to the Cabinet, on proposals brought forward by the officers' Asset Management Co-ordinating Group in respect of Council-owned property assets which are suitable for disposal, redevelopment or rationalisation in order to secure a financial return to the Council or an improvement in service provision.

**North Weald Airfield**

- 2.2 To monitor and submit recommendations to the Cabinet as appropriate on:
  - (a) strategic land use issues relating to the future development of the Airfield;

- (b) strategic matters relating to the business, recreational and other activities conducted there;
  - (c) proposals for the part redevelopment or part disposal of the Airfield or its disposal; and
  - (d) proposals for the generation of additional income from aviation and other activities at the Airfield.
- 2.3 The Committee's terms of reference shall not extend to decision-making on existing Council activities on the site which shall remain the prerogative of the relevant Portfolio Holders within the Cabinet or the Cabinet itself.
- 2.4 In carrying out its responsibilities as above, the Cabinet Committee shall have regard to:
- (i) the impact of the Local Plan Spatial Strategy as it develops;
  - (ii) the opportunities for disposing of property where it is in the best interest of the District for these to be transferred to more appropriate ownership or disposed of by leasehold in order to secure a financial return to the Council;
  - (iii) the suitability of sites for transfer to registered social landlords;
  - (iv) partnership schemes which would either assist in the delivery of infrastructure projects or unlock the potential of property holdings of partner bodies.

### **Economic Development**

- 2.5 To make recommendations to the Cabinet on an Economic Development Strategy for the District and on ways of co-ordinating the management of the Council's property assets to assist with achieving the objectives of that Strategy.

(NB as at 6/7/15)

### **3. LOCAL PLAN CABINET COMMITTEE – TERMS OF REFERENCE**

- 3.1 To oversee and submit recommendations to the Cabinet as appropriate on:
- (a) agreement of documentation for consultation on the draft plan/preferred option and documentation to seek pre-submission representations on the proposed Local Plan;
  - (b) the final form of the Council's Local Plan (i.e. the version to be submitted to the Planning Inspectorate for Independent Examination); and
  - (c) responses that should be made to any representations received following consultation on the Local Plan and related documents and supplementary planning documents.
- 3.2 To be responsible for all aspects (except those matters specified in 3.1 above) including but not restricted to:
- (a) monitoring of the achievement of milestones within the Local Plan and Community Infrastructure Levy preparation and review process;

- (b) agreement of engagement strategies for consultation periods as necessary;
  - (c) agreement of documentation for consultation on the Issues and Options; and
  - (d) agreement of draft options and policy wording to be used as the basis for Sustainability Appraisal.
- 3.3 To note, receive and, if necessary, agree officer reports on consultants' studies which contribute to the establishment of an up-to-date evidence base to influence preparation of the Local Plan.
- 3.4 To agree options for joint or co-ordinated working with neighbouring Councils, which comply with the Council's duty to co-operate and which best meet the needs of this District.
- 3.5 To respond to the Planning Services Standing Scrutiny Standing Panel as appropriate.
- 3.6 To monitor within the budgetary provision for the Local Plan, as approved by the Cabinet and the Council.
- 3.7 The membership of the Committee will comprise of members of the Cabinet, the number to be determined by the Leader of the Council.
- 3.8 That the Committee will be chaired by the Portfolio Holder responsible for Planning matters.
- N.B. (1) In the event that the Council's Cabinet is constituted according to the pro rata membership requirements of the Local Government and Housing Act 1989, any political group not having representation on the Committee by virtue of one of the named Cabinet portfolios shall nominate one member of the Cabinet to serve on this Committee.
- (2) In the event that seats on the Cabinet are allocated by the Leader of Council solely to one political group, or to an alliance of one or more groups forming an administration, seats on the Sub Committee shall only be allocated to members of that group or alliance who have seats on the Cabinet.

#### **4. HOUSEBUILDING CABINET COMMITTEE**

1. To consider and recommend to the Cabinet the Development Strategy for the Council's House Building Programme on an annual basis.
2. To consider and sign-off development appraisals and financial appraisals produced by the Council's appointed Development Agent for sites previously identified by the Cabinet as having development potential and that could be included within the Council's House Building Programme.
3. To approve the submission of detailed planning applications, and/or if more appropriate outline planning applications, by the Council's appointed Development Agent for sites that the Cabinet Committee considers are suitable for development and viable, having regard to the development appraisals and financial appraisals for the sites.

4. To invite ward members to attend meetings of the Cabinet Committee when potential development sites in their ward are under consideration, and to provide an opportunity for ward members to provide comments on proposed developments, before development appraisals and financial appraisals are signed-off and approvals to submit planning applications are given.
5. To approve the subsequent development of sites considered suitable for development and viable that receive planning permission, subject to the acceptance of a satisfactory tender for the construction works.
6. To approve, and include within financial appraisals, the use of the following sources of funding for the development of individual sites within the Council's House Building Programme:
  - (a) The agreed Housing Capital Programme Budget for the House Building Programme;
  - (b) Capital receipts made available through the Council's Agreement with the Department of Communities and Local Government allowing the use of receipts from additional Right to Buy (RTB) sales as a result of the Government's increase in the maximum RTB Discount to be spent on House Building;
  - (c) Financial contributions received from developers for the provision of affordable housing within the District, in lieu of on-site affordable housing provision, in compliance with Section 106 Planning Agreements; and
  - (d) Grant funding received from the Homes and Communities Agency.
7. To approve the submission of the Council's Pre-Qualification Questionnaire to the Homes and Communities Agency (HCA), applying for Investment Partner status with the HCA.
8. To consider and accept tenders received for the construction works on sites included within the Council House Building Programme.
9. To determine whether, in addition to the potential development sites already considered by the Cabinet, sites with development potential within the following categories should be added to either the House Building Programme's Primary List or Reserve List and detailed development appraisals and financial appraisals undertaken by the Council's Development Agent:
  - (a) Other specific garage sites comprising 6 or less garages;
  - (b) Specific garage sites where garage vacancies arise with no waiting list of applicants; and
  - (c) Specific areas of Council-owned land on housing sites considered to be surplus to requirements.
10. To determine whether sites on the Reserve List of potential development sites previously agreed by the Cabinet should be promoted to the Primary List, and detailed development appraisals and financial appraisals undertaken by the Council's Development Agent, due to:

- (a) There being insufficient numbers of properties that can be viably developed from the Primary List of potential development sites to deliver a House Building Programme of 120 new homes over a six-year period; and/or
  - (b) The Cabinet subsequently deciding to increase the size of the House Building Programme and there being insufficient numbers of properties that can be viably developed to deliver a larger Programme.
11. To monitor and report to the Cabinet on an annual basis:
- (a) Progress with the Council House Building Programme; and
  - (b) Expenditure on the Housing Capital Programme Budget for the Council House Building Programme, ensuring the use (within the required deadlines) of the capital receipts made available through the Council's Agreement with the Department of Communities and Local Government allowing the use of receipts from additional Right to Buy (RTB) sales as a result of the Government's increase in the maximum RTB Discount to be spent on house building.
12. To approve applications to the Homes and Communities Agency (HCA) (or any successor body) to obtain HCA Investment Partner Status (or similar), in order to enable the Council to seek funding from the HCA, and to approve funding bids to the HCA for developments within the Council House Building Programme (*added by Leader Decision – 21.3.14*).
13. To consider and approve the future use of any potential development site previously identified by either the Cabinet or Cabinet Committee as having possible development potential for Council House Building where it either does not gain planning consent, is deemed inappropriate to develop undevelopable by the Cabinet Committee for whatever other reason or where the development appraisal identifies that the site is economically undevelopable. (*Added by Leader Decision – 16.5.14*)
14. To decide, where necessary, the names of developments undertaken through the Council House Building Programme, following consultation with the Parish or Town Councils and Ward Members. (*Added by Leader Decision – 27.8.14*)
15. To appropriate Council-owned land, held for housing purposes and identified for Council house-building for planning purposes under provisions laid out in Section 122 of the 1972 Act and Section 226 (1) (a) of the 1990 Act on the grounds that the land is no longer required for the purposes for which it is currently held in the Housing Revenue Account. (*Added by Leader Decision – 21.10.14*)

(NB as at 6/7/15)

## **ACTION IN DESIGNATED EMERGENCIES**

### **1. PURPOSE OF APPENDIX**

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

### **2. DECLARING AN EMERGENCY**

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

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

#### **Role of the Leader of the Council**

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

#### **Declaring An Emergency**

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

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

### **Extending the Emergency Period**

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

### **Leader's Authority to Act**

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

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

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

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

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

#### **4. EMERGENCY SITUATIONS ARISING FROM THE EMERGENCY RESPONSE PLAN**

##### **Role of the Leader of the Council**

4.1 The Leader of the Council, when advised by the appropriate officer of an emergency situation affecting the district or part of the district shall consider the need for the Cabinet to make decisions on the emergency and may convene an Emergency Cabinet Committee comprising at least three Cabinet members.

4.2 In considering whether an Emergency Cabinet Committee is required, the Leader will take into account the advice of the Head of Paid Service and the District Emergency Planning Officer.

##### **Terms of Reference for Emergency Cabinet Committee**

4.3 The terms of reference for any Cabinet Committee shall include:

(a) To receive reports on the emergency situation and progress in dealing the emergency through the Emergency Response Plan.

(b) To receive recommendations from the appropriate officers in support of (a) above including the allocation of resources under Section 138 of the Local Government Act 1972.

(c) To report to the Cabinet and the Council on the emergency and the action being taken to remedy the situation together with any other terms of reference specific to the emergency concerned.

4.4 All statutory procedures regarding recording of decisions by the Sub-Committee shall be followed and the Committee will be disbanded when the emergency is over.

## **ARTICLE 8 - REGULATORY AND OTHER COMMITTEES**

1. The Council will establish the following Committees which shall be appointed by the Council at its annual meeting.

### **Responsibility for functions:**

2. The Committee and Subcommittees the subject of this Article have responsibility for determining matters which have been delegated by the Council and the Executive shown in Part 3 of this Constitution, showing those which are the responsibility of the Executive and those which are not Executive functions and any limitations on delegation.

### **Application of Rules**

3. Except those additional rules set out within this Article, the Committee and Subcommittees the subject of this Article shall operate in accordance with the Rules Contained in Part 4 of this Constitution.

### **Regulatory Committees**

#### **(a) Licensing Committee**

##### **Terms of Reference**

(1) The full Committee shall comprise 15 Councillors appointed by the Council at its annual meeting, including a Chairman and Vice-Chairman.

... (2) For the functions set out in Appendix 1, and the legislation listed in Appendix 2, a Subcommittee consisting of no more than any three Councillors drawn from the members of the full Committee shall be formed. Any such Subcommittee shall include, by rota, one of the six Licensing Subcommittee Chairmen appointed at each Annual Council meeting.

(3) The Quorum for the Committee is set out in the Rules set out in Part 4 of this Constitution save that no business shall be transacted unless either the Chairman or Vice-Chairman of the Committee is present.

(4) The Committee and Subcommittees shall have full authority to hear and determine licensing applications.

(5) The Committee and Subcommittees shall be further empowered to determine appeals made against the decisions of the Director of Neighbourhoods taken under delegated authority on licensing applications. (See Council delegation schedule for more details)

... (6) The Committee shall at all times carry out its duties solely within the policy from time to time determined by the Council and shall conduct its proceedings in accordance with the requirements set out in Appendix 3 (Conduct of Business by Licensing Committee and Subcommittees).

(7) The Licensing Committee shall take no part in the production or revision of the statement of licensing policy made under Section 5 of the Licensing Act 2003, however, they may determine policy under the legislation listed in Appendix 2 to this Article.

(8) To be responsible for the consideration and approval of Designation Orders under Section 13 of the Criminal Justice and Police Act 2001 (Exercise of Controls over the consumption of alcohol in Public Places).

**(b) Housing Appeals and Review Panel**

**Terms Of Reference**

(1) The terms of reference of the Housing Appeals Panel shall be to hear appeals against and reviews of the decisions of the Director of Communities ("the Director") acting under delegated authority, on the following housing matters only:

(a) all homelessness reviews, with the exception of the following types of reviews that are already only undertaken by officers:

(i) whether or not an allocation of either temporary or permanent accommodation is suitable for the applicant and his/her family; and

(ii) whether or not a homeless applicant should be referred to another local authority, due to their local connection with that local authority;

(b) housing succession cases, where the successor is under-occupying Council accommodation, and has been required to transfer to smaller accommodation;

(c) non-provision of discretionary home improvement grants;

(d) refusal of requests for disabled adaptations to Council properties requested by the tenant;

(e) refusal to sell Council owned-land under 50 square metres to occupiers for garden use;

(f) refusal of requests from housing applicants for "priority moves" (i.e. those very urgent and rare cases, dealt with outside of the usual Allocations Scheme);

(g) disagreements with tenants and former tenants on the level or liability for current or former rent arrears; and

(h) the banding of an applicant, in accordance with the Housing Allocations Scheme in being at the time of the decision.

(2) The Panel shall comprise five Councillors, including a Chairman and Vice-Chairman, appointed at the Annual Council meeting. Each political group represented on the Panel shall be required to nominate the equivalent number of substitutes to cover for any member of the Panel who is unavailable.

(3) A minimum of three members shall constitute a quorum for meetings of the Panel. Only members of the Panel present throughout the proceedings shall participate in the decision making process. Members arriving after the commencement of a Panel meeting will be required to leave immediately without taking part in the proceedings.

- (4) In the absence of both the Chairman and Vice-Chairman at any meeting of the Panel, a Chairman shall be appointed from the members of the Panel present (but not any substitute members) for that meeting only.
- (5) Notwithstanding the provisions of paragraph (3) it shall be competent for the Panel to hear and adjudicate on applications if less than three members are present, provided that both the applicant and the Officer or representative agree.
- (6) In relation to appeals or reviews at which the applicant's case is presented in person or by a representative, the hearing shall be conducted in the following order:
- (a) Chairman's introductory remarks;
  - (b) Presentation of the Officer's case;
  - (c) Questioning by applicant (or representative);
  - (d) Questioning by members of the Panel;
  - (e) Presentation of the applicant's case;
  - (f) Questioning by the Officer;
  - (g) Questioning by members of the Panel;
  - (h) Summing up by Officer;
  - (i) Summing up by the Officer;
  - (j) Panel considers its findings in the absence of the applicant and the Officer;
  - (k) The decision of the Panel will be conveyed to the applicant and Officer in writing.
- (l) The Panel shall have discretion to reverse the order in which the cases of the applicant and the Council are presented, provided that both parties agree.
- (7) If requested by the appellant/applicant or their representative, the Chairman may agree to (6)(b)-(d) above taking place after (e)-(g) and to (h) and (i) being reversed.
- (8) The Panel is authorised to determine any appeal (other than a review of a decision relating to homelessness) where the appellant and/or their representative fails to attend the hearing at the appointed time, place and venue and has given no prior notification to the Council of the reasons for their absence.
- (9) For reviews of homelessness decisions, where the appellant and/or their representative fails to attend the hearing at the appointed time, place and venue and has given no prior notification to the Council of the reasons for their absence, the Panel shall be authorised to decide whether or not the hearing shall proceed in the absence of the applicant, or shall be adjourned to another date.

(10) Meetings of the Panel shall be open only to those members appointed save that a Councillor or nominated person shall be permitted to attend in order to assist with the presentation of the applicant's case.

(11) The Panel shall make recommendations to the Housing Portfolio Holder/Cabinet on any matters of policy arising from specific cases.

## **Other Committees**

### **(a) Appointments Panel**

#### **1. Title**

The Panel shall be known as the "Appointments Panel".

#### **2. Terms of Reference**

(a) To receive and make recommendations to the Annual Council on nominations for the following appointments from political groups and non-affiliated members:

(i) Chairman and Vice Chairman of Council;

(ii) Leader; Deputy Leader and Cabinet members;

(iii) Chairmen; Vice-Chairmen and membership of Cabinet Subcommittees;

(iv) Chairmen; Vice-Chairmen and members of Committees and Subcommittees (excluding Scrutiny Panels); Panels; Boards Working Groups and similar bodies;

(v) Outside body appointments falling to the Council to fill;

(b) In recommending appointments to the Council, the Panel will:

(i) Propose nominations based on the entitlement of each political group in accordance with the statutory pro rata;

(ii) Ensure that consideration is given to any nominations made by non-affiliated members for any position or appointment;

(iii) Ensure, so as far is practicable, an equitable allocation of Chairmanships and Vice Chairmanships across the political groups or to non-affiliated members having majority support that is not inconsistent with the provisions of the Council's Protocol; and

(iv) Permit schedules of recommended appointments to be circulated to all members prior to the date of the Council meeting.

(c) The Panel shall, in recommending outside body appointments to the Council, do so as to give precedence to local ward members for those that have a 'local' designation and an equitable allocation of places across the political groups of the Council;

### **3. Membership**

- (a) Each statutory Political Group on the Council shall appoint two members from to form the Panel;
- (b) Where an appointed member ceases to be a member of the Council, the appropriate Political Group Leader may nominate a substitute from within their membership;
- (c) All unaffiliated members of the Council shall have the right to attend the Panel meetings and/or submit nominations in accordance with statutory provision.

### **4. Chairman**

- (a) The Chairman of the Panel shall normally be the Leader of the Council but if the Leader is not a member or present, the Chairman shall be determined by the Panel; and
- (b) The Chairman shall be responsible for reporting the recommendations of the Panel to full Council.

### **5. Meetings**

- (a) Meetings of the Panel shall be held as required following elections each Council year at the Civic Offices, Epping at the date and time indicated on the agenda timed so as to enable the prior circulation of their recommendations for nominations to the Council.
- (b) Minutes and agenda of the Panel meetings shall be circulated to the following:
- Panel Members
  - Group Leaders or Deputy Group Leader not members of the Panel
  - Unaffiliated Members of the Council

### **6. Effect of Nominations**

Nothing in these Terms of Reference precludes any Political Group or non-affiliated member of the Authority from making nominations directly at full Council or from any group or non-affiliated members changing or withdrawing previously made nominations.

### **7. Officers**

The Panel will be supported by the attendance of relevant officers from the Office of the Chief Executive and such other officers as may, from time to time, be required.

#### **(b) Council Tax Declaration Committee - Receipt Of Precepts From Other Precepting Bodies**

- (1) That the Committee comprise five Councillors, allocated according to pro rata rules.
- (2) That the terms of reference for the proposed Committee be agreed as follows:

“To exercise the Council’s functions, powers and duties relating to the formal acceptance of Council Tax precepts from the major precepting authorities and the setting of the overall Council Tax, subject to:

(a) the overall requirement that the approval of the Council’s own budget and Council Tax precept for District purposes must remain as approved by the Council; and

(b) the outcome of any meeting being reported back to the Council.”

**(c) Joint Consultative Committee**

**Terms of Reference**

(1) The Committee shall be called the Joint Consultative Committee

**(2) Objectives**

The purpose of the Joint Consultative Committee is;

(a) To bring together the Council and the recognised trade union representatives to provide a regular forum for consultation and negotiation on matters relevant to industrial relations, productivity, work arrangements and those terms and conditions of employment which the employer and/or trade unions deem appropriate.

(b) To ensure that the views of the recognised trade union representatives are sought on existing practices and on proposed changes which will affect staff.

(c) To discuss, in relation to local conditions, the implementation of matters which have been prescribed or recommended at a national, provincial or other agreed level.

(d) To conduct employee consultation between the employer and trade unions on any potential points of disagreement.

(e) To consider any relevant matter referred to it by another Committee of the Council, by the trade unions or by an officer of the Council. Relevant matters may include new ways of working, policies, procedures, reorganisations, conditions of service, staff welfare, learning and development, working conditions or safety issues.

(f) To discharge any other functions from time to time specifically referred to the Committee by the Cabinet.

(g) Any matters concerning an individual including, (but not exhaustive) pay, conduct, capability, job evaluation or promotion are not within the scope of the Committee.

**(3) Membership**

(a) The Joint Consultative Committee shall comprise of 18 persons.

- (b) The Joint Consultative Committee shall include nine councillors (to be known as the 'Council Representatives') to be appointed annually by the Council at its annual meeting based on pro rata allocations between the political groups in accordance with the Local Government and Housing Act 1989 (as amended).
- (c) Nine trade union representatives employed by the Council (to be known as the 'Staff Representatives') shall be appointed by the trade unions represented on the East of England Local Government Association Regional Council in proportion to the number of such employees in membership of each trade union, subject to each trade union represented having a minimum of one representative each. All representatives must be employees of the Council.
- (d) All members of the Committee shall retire annually and shall be eligible for re-appointment. If a member of the Committee ceases to be either a member or officer of the Council, they shall cease to be a member of the Joint Consultative Committee. Any vacancies shall be filled as soon as practicable.
- (e) Each political group or trade union represented on the Committee shall be entitled to nominate substitute members provided that the Committee Secretary is given notice not later than 60 minutes before the commencement of the meeting.

**(4) Chairman and Vice-Chairman**

- (a) A Chairman and a Vice-Chairman shall be appointed by the Committee at their first meeting in each Council year. The offices to alternate each year between the Council and Staff Representatives. If the Chairman appointed is a Council Representative, the Vice-Chairman shall be appointed from the Staff Representatives, and vice-versa. The member appointed from the Council Representatives to be Chairman or Vice-Chairman shall be a member of the Cabinet.
- (b) The Chairman of the meeting shall not have a casting vote.
- (c) It shall be competent for either side to waive its right under (a) above to nominate a Chairman at the first meeting of each Council year, in which case the Committee may proceed to elect a Chairman and appoint a Vice-Chairman on that basis.

**(5) Officers**

- (a) The Assistant Director (HR) shall be the Lead Officer for the purpose of formal and informal liaison between meetings. They shall ensure that the considerations and recommendations of the Committee are reported to all staff via the next available staff newsletter or equivalent.

**(6) Advisors**

- (a) Either side shall have the right to co-opt, in a consultative capacity, representatives of particular Directorates or Service Areas affected by an item under discussion, but only for a period during which the matter is under

consideration. The co-opted representative will attend the Committee as required.

- (b) Either side may arrange for the attendance in an advisory capacity of an officer or trade union official at a Committee meeting where it would be helpful to the business under discussion.
- (c) Such attendances under (a) and (b) above shall be notified to the Committee Secretary at least two working days of the meeting, who will inform the Chairman and Vice-Chairman of the Committee.

**(7) Meeting – Procedure and Protocol**

- (a) The Committee shall meet at least 4 times a year as set out in the annual Calendar of Meetings document. The Chairman or Vice-Chairman may call a meeting at any time giving at least 5 working days' notice.
- (b) A meeting can be called within seven days following the receipt by the Chief Executive of a requisition signed by not less than one-third of the members of either side.
- (c) The matters to be discussed at any meeting of the Committee shall be stated upon the notice summoning the meeting; provided that any other business may be considered if admitted by a majority vote of those present on each side at the meeting.
- (d) The agenda for meetings will be despatched to each member of the Committee at least 5 working days before the meeting.
- (e) The quorum of the Committee shall be 3 representatives of each side.
- (f) No recommendation shall be regarded as carried unless it has been approved by a majority of the members present on each side of the Committee. In the event that the Committee is unable to arrive at a consensus, the Cabinet will make the final decision taking the views of both sides into consideration.
- (g) The Committee will only act in an advisory role, making its recommendations to the relevant Portfolio Holder or the Cabinet for final decision.
- (h) The Committee shall have the authority to appoint or to arrange for the appointment of Subcommittees or working parties where necessary.
- (i) The minutes of proceedings of the Committee shall be kept by the Director of Governance and shall be signed by the Chairman and the Vice-Chairman.
- (j) The meetings will usually be held outside normal working hours. The Staff Representatives on the Committee shall be eligible to claim an Evening Meeting Payment in accordance with the Council's policy.
- (k) In the event of a meeting being held during normal working hours, the Staff Representatives shall be granted paid leave of absence in respect of their attendance.

- (l) Either side may request the revision of the Terms of Reference. The Committee at their next meeting will then consider the matter.

*Rev Council Feb 2015*

**(d) Member Remuneration Panel**

1. Background

The Independent Remuneration Panel is responsible for deciding the allowances payable to Councillors carrying out different roles following the modernisation of the decision-making arrangements at the District Council with effect from May 2001. It also looks at other aspects such as pensions and childcare allowances. It consists of three 'independent' local representatives selected following an interview process, who live within the district and have never served either as a councillor or actively for a political party.

2. Terms of Reference

The Terms of Reference for the Independent Remuneration Panel are as follows:

To assess the level of allowances, special responsibility allowances and other payments for members of the Council carrying out the following functions and report to the Council for determination:

- Chairman of Council
- Vice-Chairman of Council
- Leader of the Cabinet
- Deputy Leader of the Cabinet
- Individual Portfolio holders within the Cabinet
- Chairmen of Overview and Scrutiny Committees
- Vice-Chairman of Overview and Scrutiny Committees
- Chairmen of Regulatory, Area and other Committees and Working Groups
- Vice-Chairmen of Regulatory, Area and other Committees and Working Groups
- Other Members of Council

**(e) Staff Appeals Panel –**

**Terms Of Reference**

**1. Membership**

(a) The Staff Appeals Panel shall comprise five members of the Epping Forest District Council (hereinafter called the Council) to be appointed by the Council at its annual meeting or in respect of any casual vacancy at any other meeting of the Council. The Council shall also appoint five substitute members drawn from the same political groups as the Panel members who shall be authorised to deputise for members of the Panel in their absence.

(b) The Council shall also appoint a Chairman and Vice-Chairman of the Panel at the Annual Council meeting for the ensuing municipal year.

(c) No meeting of the Panel shall be held in the absence of both the Chairman and the Vice-Chairman and unless the five members (if necessary including substitutes) are in attendance.

(d) No member (or substitute) shall be a member of the Cabinet.

**2. Scope of Panel**

(a) The Panel shall be empowered to consider and determine appeals by employees of the Council only in respect of dismissal (including those deriving from selection for redundancy) and may take such action pursuant to any appeal as they think just, provided it is not contrary to any policy of the Council.

(b) The Staff Appeals Panel shall report to the Council on action taken in relation to any appeal and may submit reports, in the first instance, on any related policy issue to the Cabinet.

(c) The Panel's powers do not extend to considering matters connected to any proposal for redundancy of the Chief Executive, Deputy Chief Executive, Service Directors, Monitoring Officer, Deputy Monitoring Officer, Chief Finance Officer and Deputy Chief Finance Officer which are governed by paragraph 8 of the Officer Employment Procedure Rules.

**3. Procedure**

The Panel shall at all times conduct its proceedings strictly in accordance with the procedure agreed by the Council.

**LICENSING ACT 2003 – LIST OF FUNCTIONS AND DELEGATED AUTHORITY**

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Subcommittee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim Authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	
All policy matters except the formulation of the statement of licensing policy	All cases		

**LIST OF STATUTORY POWERS**

Those functions pertaining to licensing and registration and permits and consents contained in the following legislation and any regulations, orders, byelaws or other subsidiary legislation made under the above Acts:

Animal Boarding Establishments Act 1963  
Breeding & Sale of Dogs (Welfare) Act 1999  
Breeding of Dogs Act 1973  
Breeding of Dogs Act 1991  
Caravan Sites & Control of Development Act 1960  
Caravan Sites Act 1968  
Dangerous Wild Animals Act 1976  
Gambling Act 2005  
Guard Dogs Act 1975  
House to House Collections Act 1939  
Licensing Act 2003  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982  
Pet Animals Act 1951  
Pet Animals Act 1951 (Amendment) Act 1983  
Riding Establishments Acts 1964 & 1970  
Scrap Metal Dealers Act 1964  
Scrap Metal Dealers Act 2013  
The Game Act 1831  
Town Police Clauses Act 1847  
Town Police Clauses Act 1889  
Zoo Licensing Act 1981

## **PART A – CONDUCT OF BUSINESS BY LICENSING COMMITTEE AND SUBCOMMITTEES**

All references to committee in this annex shall be taken to infer a reference to the associated subcommittees.

### **1. General Conduct**

- 1.1 All hearings of the Licensing Committee under the Licensing Act 2003, are to be held in accordance with the Personal Licences, Hearings, Premises Licences and Club Premises Certificates, and Licensing Register Regulations, made under the Licensing Act 2003.
- 1.2 The Council's Constitution shall regulate the conduct of and debate at meetings.
- 1.3 In the case of hearings under the Licensing Act 2003, the Committee shall only consider those matters relevant to the licensing objectives as set out in the Licensing Act 2003 and the statement of licensing policy adopted by the Council.

### **2. Declarations of Interest**

- 2.1 Members of the Committee are subject to the Council's Code of Conduct and to advice from the Standard Board for England, details of which will be provided to those members.

### **3. Participation in the Hearing**

- 3.1 Debate shall be restricted to members of the Licensing Committee. Where a local ward member, not being a member of the Committee, wishes to participate in the hearing, they may do so only with the permission of the Chairman and their participation shall be subject to the same rules as are applied to any other witnesses to the application.
- 3.2 In hearings other than those under the Licensing Act 2003, where a ward member is a member of the Committee, and wishes to object to the application, the member shall give 14 days' notice of their intention, and shall play no part in the decision-making process of the Committee. In hearings under the Licensing Act 2003, those named as responsible authorities and interested parties in the Act may only make representations within the time limits set out in the relevant statutory provisions.
- 3.3 All persons participating in the hearing shall be made aware of the limitations or scope of statements that will be acceptable and, in particular, that statements should be factual or a fair statement on a matter of public interest.
- 3.4 In the case of any hearing pursuant to the summary review procedure under the Violent Crime Reduction Act 2006, the membership of any Subcommittee adjudicating on such a review shall comprise any three members drawn from the Licensing Committee subject to the proviso that no member should serve more than one hearing.

#### **4. Attendance of the Public**

- 4.1 The Council's Constitution and relevant statutory provisions relating to the admission or exclusion of the public shall apply to all meetings of the Licensing Committee.

#### **5. Natural Justice**

- 5.1 There are two elements to natural justice:

##### **(a) Fairness**

- (i) All persons affected by the decision or in the case of matters associated with the Licensing Act 2003, those named as responsible authorities and interested parties in the Act, will be allowed a hearing before a decision is made.
- (ii) Only objectors who can show clearly that they are affected by a decision shall be afforded the right to be heard or, in the case of hearings under the Licensing Act 2003, only those named in the Act as responsible authorities or interested parties.
- (iii) All information shall be made available, where possible in advance, to the applicant and the Committee.
- (iv) All members of the Committee shall be present throughout the hearing of a particular application. Where a member arrives late or leaves during a hearing of a particular application, that member shall play no part in the decision-making process. Where an application is adjourned it shall be continued by the same members only, and no others.
- (v) The Committee shall have discretion in respect of 'late' objections. Such objections shall be clearly marked on the agenda as such and the Committee shall decide on their acceptability. The applicant shall be advised of any late objections. In the case of representations made in relation to the Licensing Act 2003 applications, these shall only be accepted in accordance with the relevant statutory provisions.

##### **(b) Prevention of Bias**

- (i) The rules on the declarations of interest shall be firmly applied.
- (ii) If the Committee moves into private session to consider its decision, it shall be accompanied only by its advising officers, none of whom shall have taken a substantive part in the hearing, and shall play no substantive part in the decision-making process.

#### **6. General Procedures for Hearings**

- 6.1 The following procedural requirements shall be followed at all times:

- (a) There shall be no recommendation from officers on the agenda;
- (b) The Committee shall be supplied with copies of all relevant documentation and the process and order of procedure shall be as follows:

- (i) The Chairman will open the meeting and introduce persons as appropriate asking applicants and representatives to identify themselves.
- (ii) The Chairman will outline the procedure to be followed.
- (iii) The Lead Officer will outline the matter in hand.
- (iv) The applicant or representative will present his/her case, with or without witnesses, and be questioned by members or any objectors/persons making representations present.
- (v) Any objectors/persons making representations may then present their objections/representation, with or without witnesses, and be questioned by members or the applicant/s or their representative.
- (vi) The objectors/persons making representations may make a final statement (without introducing new issues).
- (vii) Finally, the applicant has the right to make a final statement (without introducing new issues).
- (viii) All evidence/disclosures are to be made in the presence of all persons, unless someone voluntarily excuses themselves from the proceedings.
- (ix) Committee members shall restrict themselves to questions and not discussion or comment.
- (x) The applicant, objectors/persons making representations shall be allowed to ask officers questions of a technical/factual nature at any time during the proceedings.
- (xi) An adjournment should be granted where to do otherwise would deny a fair hearing.
- (xii) The Committee may resolve to decide upon the application in private session, however, if it becomes necessary to recall anyone for additional information, everyone shall be invited to return to the Hearing.
- (xiii) The decision shall be given in the presence of all parties that wish to be present and confirmed in writing as soon as possible thereafter. If legal advice is given to members this advice will be repeated in summary form.

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## **ARTICLE 9 - THE STANDARDS COMMITTEE**

### **Standards Committee**

1. The Council will establish a Standards Committee under Section 102 of the Local Government Act 1972 and Section 28 of the Localism Act 2011. The Committee shall be known as the Epping Forest District Council Standards Committee.

### **Membership**

2. The Committee shall have nine members appointed by the Council at its annual meeting in accordance with Section 15 of the Local Government and Housing Act 1989 (pro rata). 1 member may be a member of the Cabinet nominated by the Leader of the Council.
3. Parish/Town Councils affiliated to the Committee may nominate one co-opted non-voting Parish/Town Councillor each, or elect to share a nomination.

### **Chairman and Vice Chairman**

4. The Chairman and Vice Chairman will be elected by the Council at its Annual Meeting or by the Committee. The Vice-Chairman shall deputise for the Chairman in their absence.

### **Independent Persons**

5. The Council shall appoint at least one Independent Person within the meaning of Section 28(6) and (7) of the Localism Act 2011 to give a view to the Committee on issues relating to complaints made regarding alleged breach of the Councillors' Code of Conduct. Independent Persons shall be invited to attend Standards Committee meetings and shall declare any interests and to respect confidentiality and observe the Council's Procedures, Codes and Protocols in their workings with the Council

### **Terms of Reference**

6. The Standards Committee will have the following roles and functions:
  - (a) promoting and maintaining high standards of conduct by Councillors and Co-Opted Members;
  - (b) assisting Councillors and Co-Opted Members to observe the Members' Code of Conduct;
  - (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
  - (d) monitoring the operation of the Members' Code of Conduct;
  - (e) advising, training or arranging to train Councillors and Co-Opted Members on matters relating to the Members' Code of Conduct
  - (f) considering dispensations to Councillors and Co-Opted Members (including Parish and Town Councillors) from requirements relating to interests set out in the Members' Code of Conduct
  - (g) dealing with any reports referred from or on behalf of the Monitoring Officer on any matter, including investigations relating to Councillor conduct;

(h) the exercise of (a) to (g) above in relation to the Parish Councils wholly or mainly in its area and the members of those Parish Councils either directly or through joint arrangements from time to time agreed; and

(i) adjudication on complaints regarding the operation of District Council protocols annexed to the Constitution.

*Revised ToR agreed at Council 28 July 2015*

### **Complaints Subcommittee**

7. The Committee may appoint a Complaints Subcommittee to conduct any Hearing into an allegation that a Member or Co-opted Member has breached the Authority's Code of Conduct. Such a subcommittee shall be the minimum of three members of the Standards Committee.
8. A Parish Councillor will be invited to be co-opted as non-voting member when dealing with a complaint against a Parish Councillor.

### **Complaints Sub Committee - Terms of Reference**

9. The Complaints subcommittee will undertake the following functions:
  - (a) To conduct any Hearing into an allegation that a Member or Co-opted Member has breached the Authority's Code of Conduct.
  - (b) Following a Hearing, make one of the following findings:
    - (i) That the Member has not failed to comply with the Code of Conduct and no further action needs to be taken in respect of the matters considered at the Hearing; or
    - (ii) That the Member has failed to comply with the Code of Conduct but that no further action needs to be taken in respect of the matters considered at the Hearing; or
    - (iii) That the Member has failed to comply with the Code of Conduct and that a sanction and/or an informal resolution should be imposed.
  - (c) Following any finding under (b)(iii) above, the Subcommittee may impose any action or combination of actions available to it, or impose any informal resolution or combination of informal resolutions as are available to it by law or policy.
  - (d) After making a finding, providing written notice of its findings and the reasons for its decision to the Member and complainant

### **Complaints and Complaints Subcommittee Hearings Procedures, Complaints Assessment Criteria and Investigation Procedure**

10. The conduct of complaint processes shall be approved by the Standards Committee and reviewed periodically and shall at all times accord with relevant statutory provisions.

## Article 10

### District Development Management Committee and Area Plans Subcommittees.

The Council will establish the following Committees which shall be appointed by the Council at its annual meeting.

#### Membership

- (1) The following shall be the non-executive committees of the Council, consisting of the number of members set out below:

<b>Committee or Subcommittee</b>	<b>Number of Councillors</b>	<b>Membership</b>
District Development Management Committee	15	15 members of the Council appointed by the Council at its Annual meeting, subject to pro rata requirements and including those members appointed as Chairman of each Area Planning Subcommittee.  Members to be appointed on the basis of aptitude, interest and planning experience
Area Plans Subcommittee South	25 members (Max)	All District Wards in the Parishes of Buckhurst Hill, Chigwell and Loughton. – subject to (3) below and quorum requirements set out in the Council rules
Area Plans Subcommittee East	19 members	District Wards of Chipping Ongar, Greensted and Marden Ash; Epping Hemnall; Epping Lindsey and Thornwood Common; Hastingwood, Matching and Sheering Village; High Ongar; Willingale and The Rodings; Lambourne; Lower Sheering; Moreton and Fyfield; North Weald Bassett; ; Passingford; Shelley and Theydon Bois.
Area Plans Subcommittee West	14 members	All District Wards in the Parish of Waltham Abbey together with the District Wards of Lower Nazeing; Broadley Common, Epping Upland and Nazeing and Roydon.

- (2) Members of the Council appointed to each Area Plans Subcommittee shall be drawn solely from those representing wards within the area for which the Subcommittee is responsible shown in column three above. Seats on each Subcommittee shall be allocated to all Councillors representing electoral wards in the areas concerned. The

requirement for the appointment of Subcommittees from all members of the Council shall not apply to the Area Plans Subcommittees.

- (3) The Area Plans Subcommittee (South) shall comprise a maximum of 25 Councillors, being the total number representing wards in the area for which the Sub Committee is responsible. At the Annual Council meeting, the Council shall determine the membership of that Subcommittee on the basis of the number of Councillors who sign a written notice stating that they wish to serve on the Subcommittee for the ensuing year. Any Councillor who does not sign a notice shall be deemed not to be a member of the Subcommittee for the year in question. Councillors may not retract a signed notice or seek to join the Subcommittee by signing a notice until the next Annual Council meeting.
- (4) A member of the executive may serve on an Area Plans Subcommittee if otherwise eligible to do so as a Councillor.

### **Responsibility for functions:**

The Committee and Subcommittees the subject of this Article have responsibility for determining matters which have been delegated by the Council and the Executive shown in Part 3 of this Constitution, showing those which are the responsibility of the Executive and those which are not Executive functions and any limitations on delegation.

### **Terms of Reference:**

#### **District Development Management Committee**

- (1) To determine:
  - (a) Any development proposals which affect more than one Area Plans Subcommittee;
  - (b) Any 'large scale' application<sup>1</sup> (as defined below);
  - (c) Any 'major' application<sup>2</sup> (as defined below) where the Council is the land owner.
  - (d) Any application referred by an Area Plans Subcommittee by resolution, by a minority of members of an Area Plans Subcommittee in accordance with the Council's Rules or where the Subcommittee is unable to determine the application.
- (e) To determine any recommendation of an Area Plans Subcommittee which relates to potential decisions liable to give rise to claims for costs or compensation, including development management matters and enforcement of planning requirements (including recommendations of no action) but excluding works on preserved trees.

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<sup>1</sup> 'Large-scale major development' means development involving any one or more of the following;

- (a) The provision of dwellinghouses where (i) The number of dwellinghouses to be provided is 200 or more: or (ii) The development is to be carried out on a site having an area of 4 hectares or more where the number of dwellinghouses is not known (normally an Outline application) or
- (b) The provision of a commercial building or buildings where the floor space to be created by the development is 10,000 square metres or more: or
- (c) Commercial development carried out on a site having an area of 2 hectares or more.

<sup>2</sup> 'major development' means development involving any one or more of the following;

- (a) The provision of dwellinghouses where (i) The number of dwellinghouses to be provided is 10 or more up to 199: or (ii) The development is to be carried out on a site having an area of 0.5 hectares or more but just less than 4 hectares where the number of dwellinghouses is not known (normally an Outline application)..
- (b) The provision of a commercial building or buildings where the floor space to be created by the development is 1,000 square metres or more up to 9,999 square metres: or
- (c) Commercial development carried out on a site having an area of one hectare but less than 2 hectares.

- (f) Any planning application or other planning matter submitted by, or on behalf of, a Councillor of the Authority (and/or a spouse or partner thereof).

**Area Plans Subcommittees:**

- (1) To consider all applications (except as may be delegated to the Assistant Director Governance – Development Management or fall to the District Development Management Committee to determine as set out above) received for development within the respective Subcommittee area and, except as detailed below, to make decisions on behalf of the local planning authority thereon.
- (2) Subject to the prior approval of the Chairman of the Subcommittee, to consider informal proposals for development and to give guidance to Assistant Director Governance – Development Management.
- (3) To consider planning applications made by other authorities which are considered by the Assistant Director Governance – Development Management to require member response.
- (4) To consider and make recommendations to the District Development Management Committee on applications for development within the respective Subcommittee Area where:
  - (i) the Subcommittee's proposed decision is a substantial departure from
    - (a) the Council's approved policy framework; or
    - (b) the development or other approved plan for the area; or
    - (c) it would be required to be referred to the Secretary of State for approval as required by current government circular or directive
  - (ii) the refusal of consent may involve the payment of compensation; or
  - (iii) the District Development Management Committee have previously considered the application or type of development and has so requested; or
  - (iv) the Subcommittee wish, for any reason, to refer the application to the District Development Management Committee for decision by resolution.
- (5) Applications made by officers of the Council defined in Appendix A of the Planning Services Scheme of Delegation which are required to be determined by a subcommittee.
- (6) Where an application is objected to by a Councillor in a purely personal capacity.

**Public Participation at District Development Management Committee and Area Plans Subcommittees on Planning Matters**

- (1) There shall be afforded to those classes of persons specified in the rules for participation at Appendix 1 to this Article an opportunity, on request, to make oral representations to any Area Plans Subcommittee (or in appropriate circumstances, the District Development Management Committee) meeting concerning any planning application or related matter before that Subcommittee for determination.

- (2) The procedure for dealing with requests to address an Area Plans Subcommittee or the District Development Management Committee shall be as prescribed from time to time by the Council and as set out in Appendix 1.

### **Site Visits**

- (1) Formal Site visits may be undertaken of any potential development site subject to application where there is a substantial benefit to the decision-making process. Such a visit may be approved by the Subcommittee at the meeting where they are being asked to determine the matter or in advance on the recommendation of Assistant Director Governance – Development Management in consultation with the Chairman of the Subcommittee.
- (2) Formal Site visits will be undertaken following the guidance at Appendix 2 to this Article.

**RULES FOR PARTICIPATION ON PLANNING MATTERS AT COUNCIL,  
AREA PLANS SUB AND DISTRICT DEVELOPMENT MANAGEMENT COMMITTEE  
MEETINGS**

1. The following persons shall be able, on request, to address the appropriate Area Plans Subcommittee and/or District Development Management Committee on any planning application or related matter within its terms of reference and included on any agenda, for a period of three minutes:
  - (a) one objector;
  - (b) one representative of any relevant Parish or Town Council for the purpose of explaining the views of that Council on the matter in question;
  - (c) one representative of any other authority consulted on the application or as a statutory consultee where they have so requested; and
  - (d) the applicant (or one nominated agent or representative);

In the case of planning applications which have a District wide significance, it shall be permissible for the Chairman of an Area Plans Subcommittee or the District Development Management Committee, to allow any Parish or Town Council to comment on such an application.

2. For the purposes of this Standing Order the definition of "planning application or any related matter" shall not include any existing or proposed enforcement action under the Planning Acts.
3. The Chairman of the Committee or Subcommittee may allow additional speakers in exceptional circumstances
4. Persons wishing to address the Committee or Subcommittee are required to register with Democratic Services by 4.00 pm on the day before the meeting. The Chairman may make changes or additions to speakers after that time at their discretion.
5. Persons addressing an Area Plans Subcommittee shall be allowed no more than three minutes to present their case. At the discretion of the Chairman, speakers may clarify matters relating to their presentation and answer questions from Subcommittee members.
6. Written submissions and photographic or similar material will not be considered by an Area Plans Subcommittee or District Development Management Committee. Any written submissions received after the agenda is produced will be verbally summarised and reported to the Committee.
7. The right to address the Committees is extended to both the Area Planning Subcommittees and the District Development Management Committee (but not to Council). Having previously made representations at an Area Subcommittee does not preclude any applicant, objector or parish/town council representative from speaking again when the matter is reconsidered.

### **Guidance for Members at Site Visits**

Formal site visits may be requested by any planning committee. These can be requested either before a planning meeting or resolved at the meeting concerned. However, these consume resources and delay determination of an application. It is good practice to consider site visits only where there is a substantial benefit to the decision-making process, e.g. when the impact of the proposed development is difficult to visualise from prior inspection from a public place, or from the plans and the supporting material; or it is particularly contentious.

It is recognised that Councillors are subject to lobbying on specific applications. In such cases, it is essential that care is taken to maintain the Council's and its members' integrity so as to protect the credibility of the planning process.

Councillors are asked to bear in mind the following guidance when undertaking planning site visits so as to avoid the perception of pre-determination.

- Site visits should be undertaken at an agreed predetermined time and conducted in a single group with a planning officer present at all times.
- Members of the committee concerned are encouraged to attend site visits.
- The site visit is managed by the Chairman, Vice-Chairman or planning officer present. The Chairman or Vice Chairman will remind Councillors of the guidance at the beginning of each visit. Members of the committee or subcommittee should not enter into discussions with interested parties, such as the applicant, the agent or neighbours during the visit.
- Councillors/Planning Officers should not allow interested parties to use the site visit as an opportunity of lobbying members of the committee. It is made clear to other parties at the outset that the purpose is to gather information and to view the site only.
- Any questions from Councillors should be limited to questions of fact and directed, in the first instance, to the planning officer present and not directly to interested parties present.
- In the interests of fairness to all parties, members as a single group should consider the desirability of viewing an application site from more than one property when the site visit is arranged.
- Councillors must ensure that the application is not determined at the site visit
- Councillors should avoid acceptance of any hospitality at a site visit which could be misinterpreted by third parties.

## Proposed Terms of Reference for Epping Forest District Council Audit and Standards Committee

### Statement of Purpose

1. The role of the Audit and Standards Committee is a key component of the council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial statements and provides a forum for considering ethical issues and ensuring high standards of conduct. The role of the committee is two-fold:
  - Audit - the purpose of the Committee is to provide independent assurance to the members of the adequacy of the risk management framework and internal control environment. It provides independent review of the council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal and external audit arrangements, helping to ensure efficient and effective assurance arrangements are in place.
  - Standards – The Committee deals with a range of matters including issues concerning Councillor's conduct, provides advice and guidance to the Council, the Cabinet and individual Councillors and advises on the application and review of the Members' Code of Conduct.

### Governance, risk and control

2. To review the council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances
3. To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account the internal audit opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.
4. To note the council's overall approach to value for money in ensuring the council is making best use of its resources.
5. To consider the council's framework of assurance and ensure it is adequately addresses the risk and priorities of the council.
6. To monitor the effective development and operation of risk management in the council.
7. To monitor progress in addressing risk-related issues reported to the committee
8. To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions
9. To review the assessment of fraud risks and potential harm to the council from fraud and corruption.
10. To monitor the anti-fraud strategy, actions and resources.

## **Internal Audit**

11. To approve the Internal Audit Charter
12. To approve the internal audit strategy and plan, including internal audit resource requirements, the approach to using other sources of assurances and any work required to place reliance upon these other sources. To approve any significant interim changes to the plan and resource requirements and make appropriate enquires of both management and the Chief Internal Auditor to determine if there any inappropriate scope or resource limitations.
13. To consider regular reports from the Chief Internal Auditor which:
  - Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work
  - Highlighting where there are concerns about progress with the implementation of agreed actions or where management has accepted a level of risk that the Chief internal Audit considers is unacceptable to the council.
  - Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement
14. To consider the Chief Internal Auditor's annual report:
  - The statement of the level of conformance with the Public Sector Internal Audit Standards and results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions of internal audit
  - The opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the Annual Governance Statement.
15. To support the development of effective communication with the Chief Internal Auditor.

## **External Audit and Financial Reporting**

16. To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
17. To review the annual statement of accounts. Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
18. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

19. To be responsible for the appointment of the Council's external auditors and ensure it is in line with the requirements of the Local Audit and Accountability Act 2014.

### **Treasury Management**

20. To be responsible for the scrutiny of the Council's Treasury Management Strategy, including receiving regular reports on activities, issues and trends to support the committee's understanding of treasury management activities, risks and associated assurances.

### **Accountability arrangements**

21. To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements and internal and external audit functions.
22. To report to the full Council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.

### **Membership**

23. The committee shall comprise 5 members, including 3 Councillors and 2 co-opted members. Additionally the Council is required to appoint at least 1 Independent Person to advise on Standards relating to complaints who shall be invited to meetings in a non-voting capacity.
24. Councillors serving as members of the Committee shall be appointed at the Annual Council meeting of Epping Forest District Council for a term of office of one year and shall be eligible for re-appointment for further terms of office.
25. That the seats should be allocated so they are not all drawn from one political group and are also open to councillors who are not affiliated to any political group.
26. Co-opted members shall serve for a period of 3 years from appointment. Such three year appointments shall be overlapping in terms of their expiry dates. A co-opted member may serve for a total of two such terms as of right but may be considered for two further three year terms, provided he or she is successful after open competition following public advertisement. Re-appointment for further terms shall be subject to satisfactory attendance.
27. Casual vacancies for members of the Committee who are Councillors which occur shall be filled at the next ordinary Council meeting (but not an extraordinary meeting) with a term of office expiring on the date of the next Annual Council meeting.

### **Standards Committee**

28. Promoting and maintaining high standards of conduct by Councillors and Co-Opted Members.
29. Assisting Councillors and Co-Opted Members to observe the Members' Code of Conduct.
30. Advising the Council on the adoption or revision of the Members' Code of Conduct

31. Monitoring the operation of the Members' Code of Conduct.
32. Advising, and/or censuring and/or imposing a sanction on a Councillor or Co-Opted person of a Committee (or former Councillor or Co-Opted person) of the Council.
33. To advise the Council to ensure that all members of the Council have access to training in all aspects of the Member Code of Conduct.
34. Considering dispensations to Councillors and Co-Opted Members (including Parish and Town Councillors) from requirements relating to interests set out in the Members' Code of Conduct.
35. Dealing with reports referred from or on behalf of the Monitoring Officer on any matter, including investigations relating to Councillor conduct.
36. The exercise of (29) to (35) above shall apply to parish councils and their members either directly or through a joint standards arrangement
37. Adjudication on complaints regarding the operation of District Council protocols annexed to the Constitution.
38. The Committee may appoint a Complaints Sub Committee to conduct any hearing into an allegation that a Member or Co-opted Member has breached the Council's Code of Conduct. The Audit and Standards Committee shall decide the membership of the subcommittee, ensuring where possible there is a minimum of three members of the Audit and Standards Committee.
39. The Complaints Sub Committee will undertake the following functions:
  - To conduct any Hearing into an allegation that a Member or Co-opted Member has breached the Council's Code of Conduct.
  - Following a hearing, make one of the following findings:
    - That the Member has not failed to comply with the Code of Conduct and no further action needs to be taken in respect of the matters considered at the hearing: or
    - That the Member has failed to comply with the Code of Conduct but that no further action needs to be taken in respect of the matters considered at the hearing: or
    - That the Member has failed to comply with the Code of Conduct and that a sanction and/or informal resolution should be imposed. The subcommittee may impose any action or combination of actions available to it, or impose any informal resolution or combination of informal resolutions as are available to it by law or policy.
  - After making a finding, providing written notice of its findings and the reasons for its decision to the Member and complainant.

## **Eligibility for membership**

### **Councillor members**

40. Councillors appointed to the Audit and Standards Committee may not also be members of the Cabinet or any select committee appointed by the Overview and Scrutiny Committee with responsibility for reviewing the Council's finances or financial procedures.
41. A Portfolio Holder Assistant (other than any Assistant involved in any portfolio dealing primarily with the Council's finances) appointed by the Leader of the Council shall be eligible for appointment to the Committee.
42. Appointment of Councillors shall be made on the basis of evidence of the aptitude, experience or interest and for this purpose the normal rules for pro rata appointments shall not apply.
43. Formal attendance standards be operated in respect of the three councillor members when reappointment is under consideration by the Council's Appointments Panel and the Chairman and co-opted members of the Audit and Standards Committee be consulted informally about the appointment or reappointment of councillors at the appropriate time.

### **Co-opted members**

44. Co-opted members, independent of the Council, shall be appointed by the Council on the basis of their professional expertise, experience and background as relevant to the role and responsibilities of the Audit and Standards Committee. Initial appointments of co-opted members and the filling of casual vacancies shall be made following public advertisement and interviews, the latter conducted in accordance with arrangements agreed by the Council. If the number of suitable applicants exceeds the number of co-opted places on the Committee, the Council shall keep a waiting list of suitable applicants should casual vacancies occur.

### **Chairman and Vice Chairman**

45. The Chairman and Vice Chairman of the Audit and Standards Committee shall be appointed at the first meeting of the Committee in each Council year for a term of one year expiring on the date of the first meeting of the Committee of the next Council year.
46. Casual vacancies in the position of Chairman and Vice Chairman shall be filled in the same way as required in respect of members of the Committee (see paragraph 28 above).
47. Both Councillors and co-opted members serving on the Committee shall be eligible for appointment to the office of Chairman and Vice Chairman.
48. Where the Chairman of the Committee is a Councillor, the Vice Chairman will be appointed from among the Co-opted members. Where the Chairman is one of the Co-opted members, the Vice Chairman shall be a Councillor.
49. The Chairman and Vice Chairman shall be eligible for re-appointment.

### **Parish/Town Councils**

50. Parish/Town Councils affiliated to the Standards Committee will be sent meeting agendas and invited to attend where appropriate.

**Meetings of the Committee**

51. The Committee shall meet at least three times each financial year.
52. The Committee shall be entitled to require any Member, Director, their representatives or any other officer to attend their meetings in order to discuss any matters under discussion including the annual audit programme.

**Decision Making**

53. Only the Councillors and co-opted members serving on the Committee shall be entitled to vote.
54. All members of the Committee shall be entitled to all documents advice and facilities relevant to their membership of the Committee, regardless of their status as either a Councillor or Co-opted member.

**Other Requirements**

55. All members of the Committee shall respect the confidentiality of Council information and proceedings where appropriate, particularly where exempt or confidential business is involved.
56. All co-opted members of the Committee shall be required to make a statutory registration of interests in the same form as those required of serving councillors and to be aware at all times of the requirement to clear any interest relating to their work on the Committee.
57. Members of the Committee should seek to attend all meetings of the Committee unless there are exceptional circumstances which prevent this.
58. All members of the Committee should ensure that they participate fully in any training designed to assist them in their responsibilities as members of the Committee. Similarly all members should act on appropriate advice and other information supplied by the Council to improve their effectiveness.

## **ARTICLE 12 - CONSTITUTION - JOINT ARRANGEMENTS**

### **Arrangements to Promote Well Being**

1. The Council or the Executive in order to promote the economic, social or environmental well-being of its area, may:
  - (a) enter into arrangements or agreements with any person or body;
  - (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
  - (c) exercise on behalf of that person or body any functions of that person or body.

### **Joint Arrangements**

2. The Council may establish joint arrangements with one or more local authorities and/or their Executives or exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee or equivalent with these other local authorities;
3. The Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities;
4. Except as set out below, the Executive may only appoint executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole;
5. The Executive may appoint members to a joint committee from outside the Executive in the circumstances where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area. The political balance requirements do not need to apply to such appointments; and
6. Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

### **Access to Information**

7. Article 17 of this Constitution on Access of Information shall apply to any joint committees;
8. If all the members of a joint committee are members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the Executive; and
9. If the joint committee contains members who are not on the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

### **Delegation to and from other local authorities**

10. The Council may delegate non-executive functions to another local authority;
11. The Executive may make proposals to the Council for the delegation of executive functions to another local authority or the executive of another local authority in certain circumstances; and
12. The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

### **Contracting Out**

13. The Council for functions which are not executive functions and the executive for executive functions may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

## ARTICLE 13 – OFFICERS

### Management Structure

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

#### (a) Chief Officers

2. 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  
Director of Resources

3. 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.
4. The chief officers are members of the Management Board and share responsibility for the proper running of the Council.

#### (b) Statutory Officers

5. The Council will designate the following posts as statutory officers:

Post	Designation
Chief Executive	Head of Paid Service (Local Government and Housing Act 1989 (Section 4))
Director of Governance	Monitoring Officer (Local Government and Housing Act 1989 (Section 4))
Director of Resources	Chief Finance Officer (Local Government Act 1972 (Section 151)) (also known as the Section 151 Officer)

6. The following restrictions apply in relation to appointment to statutory officer positions:
  - (a) the Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer, if a qualified accountant; and
  - (b) the Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.
7. To assist the Monitoring Officer and Chief Finance Officer (Section 151 Officer), the Council will designate a Deputy Monitoring Officer and Deputy Section 151 Officer to assist with their responsibilities. The Deputy Monitoring Officer and the Deputy Section 151 Officer will act in the absence of the Monitoring Officer and Chief Finance Officer and will be briefed on emerging issues.

8. The Head of Paid Service, the Monitoring Officer (and Deputy), the Chief Finance Officer (and Deputy), the Chief Internal Auditor and all other service Directors are members of the Corporate Governance Group and share responsibility for the proper governance of the Council. The Corporate Governance Group will meet on a monthly basis to consider matters related to probity and finance

**(c) Structure**

9. 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.

**Functions and Responsibilities of the Statutory Officers**

10. The statutory officers will have the following functions and responsibilities:

**(a) Head of Paid Service**

11. The Head of Paid Service will discharge all relevant statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council.
12. 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 and meeting the staffing needs of the Council; and
  - (b) the appointment and proper management of the staff.
13. 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) 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;
  - (g) 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;
  - (h) develop effective working liaison and relationship with the Council's External Auditor;
  - (i) 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; and
  - (j) have access to an appropriate budget (whether corporate or serviced based) to address any matter concerning his or her functions.
14. To ensure the effective and efficient discharge of the arrangements set out 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.
15. 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.
16. 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.
17. 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.
18. 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) Monitoring Officer**

19. The Monitoring Officer will discharge their statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council.
20. In general terms the ability of the Monitoring Officer 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.

21. 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. The Monitoring Officer will:
- (a) 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;
  - (b) have access to all meetings;
  - (c) 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 and constitutional issues;
  - (d) be provided with access to all reports to Councillors;
  - (e) develop good liaison and working relations with the Council's External Auditor and the Local Government Ombudsman, including giving and receiving relevant information, whether confidential or otherwise, whether requested or not;
  - (f) ensure that the Head of Paid Service and the Chief Finance Officer have up-to-date information regarding emerging issues;
  - (g) make or commission enquiries into allegations of misconduct by Councillors;
  - (h) in carrying out any investigation, have unqualified access to any information held by the Council and any employee who can assist in the discharge of his or her functions;
  - (i) 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 or her functions;
  - (j) be responsible for preparing a training programme for Members of the Council on the ethical framework, for approval by the Standards Committee;
  - (k) 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 Paid Service and the Chief Finance Officer;
  - (l) defer (if required) the making of a formal report under Section 5 of the Local Government and Housing Act 1989 where another investigative body is involved;
  - (m) make (if required) an annual report to the Council on the staff, accommodation and resources required to discharge his or her functions;
  - (n) make arrangements to ensure good communication with the Town and Parish Councils in the District;
  - (o) be the primary qualified person in respect of advice on the application of Section 36 of the Freedom of Information Act 2000 (Where the Monitoring Officer is absent, responsibility for the functions of the qualified person will fall to the Deputy Monitoring Officer, subject to consultation with the Chief Executive);

- (p) maintain an up-to-date version of the Constitution and ensure that it is widely available for consultation by members, staff and the public;
  - (q) after consulting with the Head of Paid Service and Chief Finance Officer, 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;
  - (r) contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee;
  - (s) receive and act on reports and decisions of case tribunals in relation to standards matters and conduct investigations into standards matters and make reports or recommendations in respect of them to the Standards Committee;
  - (t) 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;
  - (u) report on contraventions or likely contraventions of any enactment of rule of law;
  - (v) report on any maladministration or injustice where Ombudsman has carried out an investigation;
  - (w) 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;
  - (x) establish and maintain registers of Members' interests and gifts and hospitality; and
  - (y) make payments or provide other benefit as compensation for maladministration.
22. If any member of the Council has concerns about any conflict of interest concerning the duties of the Monitoring Officer, they shall raise those concerns with the Head of Paid Service or with the Monitoring Officer directly.
23. The Monitoring Officer will undertake to review the issue (if necessary taking advice of the Corporate Governance Group) and respond to the concerns with action proposed. Such concerns about possible conflicts of interest shall be expressed on the understanding that it is for the Monitoring Officer to determine whether a conflict of interest exists and that such concerns should not be raised in formal meetings of the authority without prior consultation with the Monitoring Officer.
24. In the event that the Monitoring Officer acknowledges that a conflict of interest exists he or she will make arrangements for the matter concerned to be undertaken by the Deputy Monitoring Officer, if necessary after discussion with the Corporate Governance Group.
- (c) Chief Finance Officer**
25. The Chief Finance Officer will discharge their statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council.

26. In general terms, the ability of the Chief Finance Officer to discharge these 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.
27. 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 or her 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) 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 the Monitoring Officer;
  - (g) report to the Council, as necessary, on the staff, accommodation and resources required to discharge his statutory functions;
  - (h) 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);
  - (i) 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;

- (j) 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; and
  - (k) appoint an appropriate adviser in cases where the Chief Finance Officer is precluded from offering advice and the deputy is unable to advise.
28. To ensure the effective and efficient discharge of the arrangements set out 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.
  29. The Chief Finance Officer will be 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.
  30. To ensure the effective and efficient discharge of his or her duties and responsibilities, 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 role of the Chief Finance Officer.
  31. If any member of the Council has concerns about any conflict of interest concerning the duties of the Chief Finance Officer they shall raise those concerns with the Head of Paid Service or with the Chief Finance Officer directly.
  32. The Chief Finance Officer will undertake to review the issue (if necessary taking advice of the Corporate Governance Group) and respond to the concerns with action proposed. Such concerns about possible conflicts of interest shall be expressed on the understanding that it is for the Chief Finance Officer to determine whether a conflict of interest exists and that such concerns should not be raised in formal meetings of the authority without prior consultation with the Chief Finance Officer.
  33. In the event that the Chief Finance Officer acknowledges that a conflict of interest exists he or she will make arrangements for the matter concerned to be undertaken by the Deputy Chief Finance Officer, if necessary after discussion with the Corporate Governance Group.
  34. After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance 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.
  35. The Chief Finance Officer will have responsibility for the proper administration of the financial affairs of the Council.
  36. The Chief Finance Officer will contribute to the corporate management of the Council, in particular, through the provision of professional financial advice.
  37. The Chief Finance 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 will support and advise Councillors and Officers in their respective roles. The Chief Finance Officer will record details of any advice given.

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

#### **Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer**

39. The Council will provide the Monitoring Officer and Chief Finance Officer with such accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

#### **Conduct**

40. All officers will comply with the Council's Officers' Code of Conduct.

#### **Employment and Dismissal of Staff**

41. 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 human resources policies and procedures.

#### **Delegation to Officers**

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

**APPENDIX 1**  
**MANAGEMENT STRUCTURE**

See separate Appendix.

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Chief Executive  
(Head of Paid Service)  
Returning Officer/Registration Officer  
Glen Chipp – 01992 564080

Director of Resources  
S.151 Officer/Chief Financial Officer  
Bob Palmer  
01992 564279

Director of Governance  
Monitoring Officer/Solicitor to Council  
Colleen O'Boyle  
01992 564475

Director of Neighbourhoods  
Deputy Chief Executive  
Overview & Scrutiny Lead  
Derek Macnab  
01992 564050

Director of Communities  
Alan Hall  
01992 564004

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Assistant Director Human Resources Paula Maginnis 01992 564536	Assistant Director Benefits Janet Twinn 01992 564215	Assistant Director Revenues Rob Pavey 01992 564211	Assistant Director Accountancy Peter Maddock 01992 564602	Assistant Director ICT & Facilities Mgt David Newton 01992 564580	Assistant Director Governance & Performance Mgt Simon Hill 01992 564249	Assistant Director Legal Services Alison Mitchell 01992 564017	Assistant Director Dev. Mgt Nigel Richardson 01992 564110.	Chief Internal Auditor Brian Bassington 01992 564446
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Assistant Director Neighbourhood Services Jim Nolan 01992 564083	Assistant Director Technical Services Qasim Durrani 01992 564055	Asst. Director Planning & Economic Development Kassandra Polyzoides 01992 564119	Assistant Director Housing Property Paul Pledger 01992 564248	Assistant Director Housing Operations Roger Wilson 01992 564419	Assistant Director Private Sector Housing & Communities Support Lyndsay Swan 01992 563600	Assistant Director Community Services & Safety Julie Chandler 01992 564214
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HR Payroll Health & Safety Admin & Secretarial Reprographics	Housing Benefits Local Council Tax Support Welfare Reform Discretionary Hsg Payments Overpayment Recovery	Council Tax Non-Domesitic Rates Debt Recovery Property Insp. & Appeals Cashiers and Income Collection	Treasury Mgt. Accountancy Insurance Procurement Invoice Payments	ICT Telecommunications Facilities Mgt. Building Services GIS	Performance Mgt Data Protection FOI Equalities Civic & Member Services Elections/Electoral Register PR & Marketing/Information Democratic Services	Legal Services LLC Compliments & Complaints	Development Control Planning Enforcement Building Control Contaminated - Land Applications Tree Preservation & Landscape Built Heritage	Internal Audit Corporate Fraud Investigation	Leisure Mgt Environ. Health Neighbourhoods Public Health & Wellbeing Emergency Planning Licensing NWA Operations	Waste Mgt. Car Parking Land Drainage Flood Alleviation Highways Gen. Grounds Mtnc & Arboriculture Countrycare Contaminated Land Depots Fleet Operations	Environmental Co-ordinator Planning Policy Transport Economic Dev Town Centre Partnerships Local Strategic Estates and Valuation	Housing Repairs & Maintenance Architecture Housing Building Maintenance	Housing Landlord functions (housing management, sheltered housing etc). Housing Options	Private Sector Housing Disabled Adapt. Housing Resources Park Homes Policy & Grants	Safer Communities Community Dev. Arts Dev. Sports Dev. Museum Services Young People Youth Council Safeguarding
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## **ARTICLE 14 - DECISION-MAKING**

### **Introduction**

#### **Responsibility for Decision-Making**

1. 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.
2. Sections 9D and 9DA 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 (as amended).

#### **Principles of Decision-Making**

3. 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) (Meetings and Access to Information) (England) Regulations 2012.

### **Forward Plan**

- 4. 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

### **Types of Decision**

#### **5. Key Decisions**

- (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 policy;
  - (b) involves expenditure or savings of £100,000 or above which are NOT currently within budget and policy;
  - (c) is likely to be significant in terms of its effect on communities living or working in an area comprising 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 promotion of local legislation;
- (ii) borrowing or lending decisions by the Director of Resources under delegated authority and estates management matters that relate to income made by the Director of Neighbourhoods and/or the Chief Estates Officer shall not be key decisions.

#### **Responsibility for making a Key Decisions**

- 6. 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 Article 7 (The Executive) and Article 17 (Access to information)

- (ii) Key decisions may not be made by Officers unless specifically delegated;
- (iii) Key decisions involving expenditure within the budget and policy framework below £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**

7. Other non-key decisions shall be taken by the relevant Cabinet Committee, Portfolio holder, 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.

### **Decision making by Portfolio Holders**

8. Individual portfolio holders may take decisions on:
- (i) key decisions within the category in 6 (iii) above (£1,000,000 or below), 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 only if recommended as one of a range of options recommended by a 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. Decisions reserved to the Council**

- (a) Decisions reserved to the full Council relating to the functions listed in Article 4 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.

**8. 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 13 (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.

## **ARTICLE 15 - FINANCE, CONTRACTS AND LEGAL MATTERS**

1. This article refers on to the authority's Financial and Contract Rules, which are contained in Part 5 of this Constitution and to Sections 135, 151, 223 & 234, Local Government Act 1972 Part VIII, Local Government Finance Act 1988.

### **Financial Management**

2. The management of the Council's financial affairs will be conducted in accordance with:
  - (a) The Budget and Policy Framework set out in Part 4 of this Constitution; and
  - (b) Financial Regulations within Part 4 of this Constitution.

### **Contracts**

3. Every contract made by the Council will comply with the Contracts Rules set out in Part 4 of this Constitution unless a waiver has first been obtained by report to Portfolio Holder or the Cabinet as appropriate.

### **Legal Proceedings**

4. The Director of Governance is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Director of Governance considers that such action is necessary to protect the Council's interests. Further details are set out in the scheme of delegation in Part 3 of this Constitution.

### **Authentication of Documents**

5. Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Director of Governance or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

### **Common Seal of the Council**

6. The Common Seal of the Council will be kept in a safe place in the custody of the Director of Governance. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.
7. The Common Seal will be affixed to those documents which in the opinion of the Director of Corporate Support Services should be sealed or are required by the Procurement Rules in Part 4 of this Constitution..
8. The affixing of the Common Seal will be attested by person(s) authorised by the Leader or Cabinet as set out in Part 3 (Executive Delegations) of this Constitution

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## **ARTICLE 16 – REVIEW, REVISION AND SUSPENSION OF THE CONSTITUTION**

### **Duty to Monitor and Review the Constitution**

1. The Monitoring Officer in consultation with the Head of Paid Service, the Chief Financial Officer and the Leader of the Council will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

### **Protocol for Monitoring and Review of Constitution**

2. A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations to the Council for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:
  - (i) observe meetings of different parts of the member and officer structure;
  - (ii) undertake an audit trail of a sample of decisions;
  - (iii) record and analyse issues raised by members, officers, the public and other relevant stakeholders; and
  - (iv) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

### **Changes to the Constitution**

3. All changes to the Constitution shall be approved by the Council, with the exception of the following which may be made by the Monitoring Officer:
  - (i) changes to give effect to any decisions of the Council;
  - (ii) changes in the law;
  - (iii) minor amendments such as to correct errors; and
  - (iv) to ensure that the Constitution is maintained up-to-date.
4. Any such changes will be communicated to all Councillors.

### **Suspension of the Constitution**

#### **Limit to Suspension**

5. The Articles of this Constitution may not be suspended. The Rules set out in Part 4 may be suspended by the full Council to the extent permitted within those Rules and the law.

#### **Procedure to Suspend**

6. The procedure for suspension is set out in the rules in Part 4 of this Constitution.

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## **ARTICLE 17 - ACCESS TO INFORMATION**

### **Scope**

1. This Article applies to all meetings of the Council, the Overview and Scrutiny Committee, all committees and regulatory committees and other public meetings of decision-making bodies. Access to information provisions specific to the Cabinet are set out separately within this Article.

### **Additional Rights to Information**

2. These rules do not affect any more specific rights to information contained elsewhere in the Constitution or the law.

### **Right to Attend Meetings**

3. Members of the public may attend all meetings subject only to the exceptions set out in this Article.
4. Any meeting of a decision-making body will be held in public and the public may only be excluded in the following circumstances:
  - (a) if any part of the meeting is likely to disclose confidential or exempt information; or
  - (b) if a lawful power of exclusion is used to maintain orderly conduct or prevent misbehaviour.
5. Definitions of confidential and exempt information are set out within the glossary to the Constitution. The categories of exempt information are detailed in Appendix 1 to this Article.
6. Any person attending a meeting for the purpose of reporting the proceedings, will be afforded reasonable facilities for the purpose. The Council has a protocol for filming and photographing meetings and complies with the requirements of the Openness of Local Government Bodies Regulations 2014 in this regard.

### **Notice of Meeting**

7. The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Civic Offices, High Street, Epping, Essex CM16 4BZ and on its website.

### **Access to Agenda and Reports before a Meeting**

8. The Council will make copies of all agenda and reports for meetings that are open to the public available for inspection at the Civic Offices and its information centres at least five clear days before the meeting. If an item is added to an agenda later, such supplementary agenda will be open to inspection from the time that the item was added to the agenda.
9. Agenda (and supplementary agenda) will be sent to members of the Council either by electronic means (if the member has opted-in to the service of such documents electronically), or to their designated postal address. Physical copies of agenda will

normally only be issued to those councillors appointed to membership of each decision-making body.

### **Supply of Copies**

10. The Council will supply copies of the following to any other person, subject (where necessary) to the payment of appropriate costs in respect of copying and postage etc.:
  - (a) any agenda and reports which are open to public inspection;
  - (b) any further statements or particulars necessary to indicate the nature of the items in an agenda; and
  - (c) if the Monitoring Officer thinks fit, copies of any other document(s) supplied to councillors in connection with an item in an agenda.

### **Access to Minutes and Decisions after a Meeting**

11. The Council will make copies of the following available for six years after a meeting:
  - (a) the minutes of the meeting and/or records of decisions taken, together with reasons, for all meetings, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
  - (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
  - (c) the agenda for the meeting; and
  - (d) reports relating to items considered when the meeting was open to the public.

### **Background Papers**

12. The Council will set out in every report a list of those documents (called background papers) relating to the subject matter of the report, which in his or her opinion:
  - (a) disclose any facts or matters on which the report or an important part of the report is based; and
  - (b) which have been relied on to a material extent in preparing the report, but does not include published works or those which disclose exempt or confidential information and, in respect of Cabinet reports, the advice of any political advisor.
13. The definition of a political advisor is set out within the glossary to the Constitution.
14. The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

### **Exclusion of Access to Meetings by the Public**

15. The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information would be disclosed.

16. The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.
17. Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of Schedule 1 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in that Schedule.

### **Exclusion of Access to Reports by the Public**

18. If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which the meeting is likely not to be open to the public. Such reports will be marked 'Not for publication' together with the category of exempt information likely to be disclosed.

### **Additional Rules Applicable to the Cabinet**

19. The following rules apply to the Cabinet, its Committees, individual Cabinet members and officers (where appropriate). These rules summarise the provisions of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
20. Members of the Cabinet or its committees will be entitled to receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency. Notice and papers will be sent to all other members of the Council.

#### **(a) Private Meetings of the Cabinet**

21. A 'private' meeting of the Cabinet or its Committees is any meeting, either wholly or in part, where a decision will be made in private session as a result of the consideration of exempt information.
22. Notice of the Cabinet's intention to hold a private meeting (whether a whole meeting or a part) shall be given at least twenty-eight days in advance on the Council's website. The notice must give reasons for holding the meeting (whether wholly or in part) in private.
23. Further notice, in the form of the agenda for the meeting, must be given of a private meeting at least five clear days before the meeting at the Civic Offices and on the Council's website, giving the reasons for holding the meeting in private and any representations received from the public about why it should be held in public.
24. Where the date of a meeting is such that it is impracticable to comply with the above requirements, a meeting may only be held in private where:
  - (a) the approval of the Chairman of Overview and Scrutiny Committee has been obtained or, in his or her absence, that of the Chairman of the Council; or
  - (b) a notice has been published at the Civic Offices and on the Council's website indicating the reasons as to urgency and why the meeting cannot reasonably be deferred.

**(b) Attendance at Private Meetings of the Cabinet**

25. All members of the Cabinet will be served notice of all private meetings of committees of the Cabinet, whether or not they are members of that committee. All members of the Cabinet are entitled to attend a private meeting of any committee of the Cabinet.
26. Notice of private meetings (as defined by the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012) of the Cabinet and its committees will be served on the Chairman of the Overview and Scrutiny Committee at the same time as notice is served on members of the Cabinet. If the Chairman of the Overview and Scrutiny Committee is unable to act, the notice will be served on all the members of the committee.
27. The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer (or their nominees) are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the Proper Officer has been given reasonable notice that a meeting is to take place. A private Cabinet meeting may only take place in the presence of the Proper Officer or his or her nominee with responsibility for recording and publicising the decisions.
28. The provisions of this Article relating to the recording and publicising of decisions will apply to all private meetings of the Cabinet.

**(c) Procedures prior to Public Meetings of the Cabinet**

29. Public meetings of the Cabinet may only be held where:
  - (a) the time and place of the meeting has been published at the Civic Offices and on the Council's website at least five clear days before the meeting; or
  - (b) if the meeting is convened at shorter notice, the time and place of the meeting has been published at the Civic Offices and on the Council's website from the time at which it is convened; and
  - (c) a copy of the agenda (or part thereof) has been available for inspection by the public at least five clear days before the meeting (or at such shorter notice as indicated above).

**(d) Access to Cabinet Agenda and Reports for Public Meetings**

30. There is no requirement for a copy of the agenda, item or report to be available for inspection by the public until a copy is available to members of the decision-making body concerned.

**Key Decisions**

31. The definition of a key decision is set out within the glossary to the Constitution.

**(a) Publicity for Key Decisions**

32. Where the Cabinet intends to make a key decision, it may not be made until a public notice to that effect has been available at the Civic Offices and on the Council's website for at least twenty-eight days beforehand. The notice must include:
  - (a) the subject matter;

- (b) the name of the decision-maker;
  - (c) the date on or period during which the decision will be made;
  - (d) a list of documents submitted to the decision taker for consideration in connection with the decision;
  - (e) the address where copies can be obtained (subject to any redacted content); and
  - (f) any other documents to be provided to the decision taker and how details may be requested.
33. The notice must not disclose any exempt or confidential information but must, otherwise, give particulars of the subject matter.

**(b) Period of the Key Decision List**

34. The Key Decision List will be prepared by the Leader of the Council to cover a period of four months, beginning with the first day of any month. The Key Decision List will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan. The Key Decision List will be published at least 14 days before the start of the period covered.

**(c) Contents of the Key Decision List**

35. The Key Decision List will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers (if specifically delegated), area committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. The Key Decision List will incorporate details of proposed private decisions and describe the following particulars in so far as the information is available or might reasonably be obtained:
- (a) the matter in respect of which a decision is to be made;
  - (b) where the decision taker is an individual, his or her name and title, if any and where the decision taker is a body, its name and details of membership;
  - (c) the date on which, or the period within which, the decision will be taken;
  - (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
  - (e) the means by which any such consultation is proposed to be undertaken;
  - (f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
  - (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.
36. Exempt information need not be included in the Key Decision List. Confidential information cannot be included in the Key Decision List.

**(d) General Exception**

37. If a matter which is likely to be a key decision has not been included in the Key Decision List, subject to the Special Urgency provisions below, the decision may still be taken if:
- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Key Decision List and until the start of the first month to which the next forward list relates;
  - (b) the Proper Officer has informed the Chairman of the Overview and Scrutiny Committee or, if the Chairman of the Committee is unable to act, each member of the committee in writing, by notice, of the matter to which the decision is to be made;
  - (c) the Proper Officer has made copies of that notice available to the public at the offices of the Council; and
  - (d) at least five clear days have elapsed since the Proper Officer complied with (a) and (b) above. Where such a decision is taken collectively, it must be taken in public.

**(e) Special Urgency**

38. If by virtue of the date by which a decision must be taken, General Exception procedure above cannot be followed, the decision may only be taken if the decision-taker (if an individual) or the chairman of the body making the decision, obtains the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If the Chairman of the Committee is unable to act, the agreement of the Chairman of the Council, or in his or her absence the Vice-Chairman of the Council, will suffice.

**(f) Reports to the Council Where Key Decision Procedures Not Followed**

39. If the Overview and Scrutiny Committee considers that a key decision has been taken which was not:
- (a) included in the key decision list; or
  - (b) the subject of the general exception procedure; or
  - (c) the subject of an agreement with the Chairman of the Overview and Scrutiny Committee, or the Chairman/Vice-Chairman of the Council under the procedures set out above:

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the committee when so requested by the chairman or any five members. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

**(g) Cabinet Report to Council**

40. The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of the receipt of a notice requiring the Cabinet to submit a report to the Council, or a resolution of the Overview and Scrutiny Committee, the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

**(h) Reports on Special Urgency Decisions**

41. The Leader will submit a report to the Council on any Cabinet decision taken in the circumstances set out in the Special Urgency provisions above. The report will include a summary of the matter in respect of which such decision was taken.

**(i) Recording of Cabinet Decisions at Meetings and by Individuals**

42. After any meeting of the Cabinet or any of its committees, whether held in public or private, the Chief Executive or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting. All Cabinet decisions (including those of individual Portfolio Holders) must be recorded by means of a written statement, which must be produced within twenty working days after the decision is made. The written statement must include the following:

- (a) a record of the decision and the date on which it was made;
- (b) the reasons for the decision;
- (c) alternative options considered and rejected;
- (d) any conflict of interest declared; and
- (e) any dispensation granted by the Monitoring Officer.

43. These requirements apply to decisions made by the Cabinet, a Cabinet Committee, Portfolio Holders and officers acting under specific delegations approved by the Cabinet at a meeting or by a Portfolio Holder. The requirement to record executive decisions made by officers does not extend to the management of services or the exercise of delegated authorities for service provision as recorded in the section of the Constitution setting out responsibility for functions.

**(j) Inspection of Documents and Background Papers following Cabinet Decisions**

44. The provisions of this Article in relation to the inspection of documents and background papers shall apply to all recorded Cabinet decisions.

**(k) Additional Rights of Access to Documents by Councillors**

45. Any document in the possession of the Cabinet and which contains material relating to business at a public meeting, must be available for inspection by any Councillor at least five clear days before any relevant meeting. Where a meeting is convened or an item is added to an agenda at shorter notice, relevant documents must be available when the meeting is convened or the item added.

46. Documents relating to decisions at private meetings by Portfolio Holders or by an officer, must be available no later than 24 hours after the meeting concludes or the decision is made.
47. Documents disclosing exempt information are not required to be available for inspection. Documents disclosing Category 3 exempt information shall only be available in so far as they relate to any terms for a contract with the Council or any contract negotiations.
48. A member of the Overview and Scrutiny Committee is entitled to a copy of any document:
  - (a) under the control of the Cabinet; and/or
  - (b) containing material relating to business transacted at a public meeting or a decision of a Portfolio Holder or officer.
49. When requested the document must be provided by the Proper Officer no later than ten clear days after the request is received. There is no entitlement to a copy of any such document if it contains exempt or confidential information unless:
  - (a) it is relevant to a review or scrutiny of a decision with which that member is carrying out; or
  - (b) it is relevant to a review being conducted by the Overview and Scrutiny Committee or any of its Select Committees or Task and Finish Panels and which is contained in their programme of work.
50. If the Cabinet determines that there is no entitlement to any such document, a written statement must be provided to the Overview and Scrutiny Committee by the Proper Officer.

**(l) Cabinet Meetings Relating to Matters Which are not Key Decisions**

51. The Cabinet will decide whether meetings relating to matters, which are not key decisions, will be held in public or private.

**(m) Decisions by Individual Members of the Cabinet**

52. As soon as reasonably practicable after an Cabinet decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he or she will prepare, or instruct the Proper Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The record of the decision will utilise the pro-forma decision sheet maintained by Democratic Services.
53. The provisions of this Article relating to the inspection of documents after meetings will also apply to the making of decisions by individual members of the Cabinet. Details of all decisions taken will be published in the Council Bulletin to facilitate the commencement of the period for call-in.

**(n) Overview and Scrutiny Committee - Access to Documents**

54. The Overview and Scrutiny Committee (including any Select Committee or Task and Finish Panel appointed by it) will be entitled to a copy of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to:

- (a) any business transacted at a public or private meeting of the Cabinet or its committees; or
  - (b) any decision taken by an individual member of the Cabinet.
55. The Overview and Scrutiny Committee will not be entitled to:
- (a) any document that is in draft form; or
  - (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.
- (o) Additional Rights of Access for Members**
56. All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a private meeting unless it contains exempt information falling within the categories of exempt information.
57. All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any key decision unless paragraph 24.1 (a) or (b) above applies.
58. These rights of a member are additional to any other right he or she may have.

**Conventions on the Relationships between Political Groups & Councillors with Officers**

59. The formal business of the Council is regulated by the Constitution and supplementary guidance. The conventions set out in Appendix 2 to this Article are for the guidance of members of the Council and Directors and are aimed at supplementing such rules and guidance.

## APPENDIX 1

### EXEMPT INFORMATION

#### 1. EXEMPT INFORMATION

1.1 Exempt information is any information falling within the seven categories applied by Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006.

- (a) information relating to any individual;
- (b) information which is likely to reveal the identity of an individual;
- (c) information relating to the financial or business affairs of any particular person (including the authority holding that information);
- (d) information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority;
- (e) information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;
- (f) information which reveals that the authority proposes:
  - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (ii) to make an order or direction under any enactment; and
- (g) information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

#### 2. QUALIFICATIONS

2.1 Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:

- (a) the Companies Act 1985;
- (b) the Friendly Societies Act 1974;
- (c) the Friendly Societies Act 1992;
- (d) the Industrial and Provident Societies Act 1965 to 1978;
- (e) the Building Societies Act 1986; or
- (f) the Charities Act 1993.

2.2 Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

2.3 Information which:

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 10.5 (sub paragraphs 1 or 2) above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **APPENDIX 2**

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

#### **Entitlement to Information**

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. A Councillor may require the Director to treat the request for information as confidential and this confidentiality will be respected unless it is agreed with the Councillor concerned that request no longer needs to be treated in that way.
3. All such requests shall be made to the appropriate Director or Assistant Director.
4. Where a Director on his own initiative provides information to any political group, the information will also be supplied to the other Groups unless it is of a routine or minor nature.

#### **Briefing Meetings**

5. Formal briefings may be arranged for meetings to discuss business to be transacted at meetings. Briefings will be attended by the Chairman and Vice-Chairman concerned.
6. Briefing meetings will deal only with procedural matters and the up-dating of information contained in agenda items by officers. All briefings will be held at a mutually convenient time, usually on the day of the meeting in question.
7. Group Leaders and independent members may attend the briefing for Council meetings.

#### **Briefing of Political Groups**

8. The Chief Executive, Directors and Assistant Directors of the Council shall attend meetings of political groups only if this is for the purpose of assisting Council business. Where a political group invites an officer to attend a meeting, such invitations should be accepted only if the same opportunity is afforded to all political groups. Where officers have doubts about the appropriateness of accepting such an invitation, the Chief Executive will make a final decision.
9. Where an officer considers that it would assist Council business to attend a political group meeting for the purpose of briefing and makes a proposal that he or she should attend, the officer concerned shall be careful to extend that offer to all political groups.
10. 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. Group Leaders' meetings shall be chaired by the Leader of the largest political group present.

## **Relations with the Media**

11. Official media statements will be issued on behalf of the Council, a Portfolio Holder, an or the Chairman of the Overview and Scrutiny or other Committee. 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 releases 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.
12. Members may speak directly to the media on any given issue (subject to legal constraints such as the Data Protection Act 1998) in order to express personal or political points of view.
13. 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.
14. Political groups and individual councillors should bear in mind the special rules which apply to Council publicity during election periods and shall bear in mind the guidance set out as an annex to this Appendix.

## **Officer Support Arrangements**

15. 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 chief officers attending when required. The Deputy Chief Executive will be the lead officer for the Overview and Scrutiny Committee.
16. Democratic Services will support both the Cabinet 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.
17. Draft minutes for all meetings will be cleared with the relevant Chairman.

## **Review of Conventions**

18. The Chief Executive may 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.

## ANNEX 1

### RELATIONS WITH POLITICAL GROUPS ETC AT THE ELECTION PERIOD AND AT OTHER TIMES

#### FREQUENTLY ASKED QUESTIONS

**1. What is the Election Period?**

The Election Period is the period of time from when the Returning Officer issues a notice of an election until after the election is held. It is sometimes referred to as the “Purdah” period, although this description is not regarded as appropriate to the subject matter. This period usually lasts 25 days. Ordinary local government elections in England are held on the first Thursday in May every year unless changed by Order of the Secretary of State (Section 37 of the Representation of People Act 1983).

**2. What does the Law state about the Election Period?**

It is a statutory duty to have regard to the Code of Recommended Practice on Local Authority Publicity. The Code of Recommended Practice on Local Authority Publicity, 2011, which applies to all local authorities in England states: “The period between the notice of an election and the election itself should preclude proactive publicity (in all forms) of candidates and other politicians involved directly in the election.”

**3. What are the implications of the Election Period for the Council?**

The Government Code explains that Directors should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them within individual members or groups of members. During this period, there is a ban in place on publicising the views of political parties, issuing press releases or promoting initiatives with quotes and photos which would favour a particular candidate.

**4. What are the implications of the Election Period for individual Directors and Assistant Directors?**

The basic principle is that any activity which could call into question a Director’s impartiality or could give rise to the criticism that public resources are being used for party political purposes, must be suspended during the Election Period.

**5. How do I find out who the candidates are?**

The Returning Officer will have details of all candidates standing in any election (Parliamentary, District, Parish and Police Commissioner) within the Epping Forest District once the notice of the election is published.

**6. What kind of information can I supply to candidates?**

A Director can only supply factual information to candidates if asked and must not offer views and opinions during the Election Period as this will compromise rules of impartiality.

**7. If I am approached by more than one political party to supply information to candidates what should I do?**

Directors and Assistant Directors must undertake an 'even-handed' approach to the supply of information to political parties and independent candidates so as not compromise their impartiality of politics. All political parties and independent candidates should be regarded as having equal rights when requests are received.

**8. What information can I supply to Members of the Council who are not standing for election?**

Requests for information by Members of the Council who are not standing for election must also be treated with care. Directors might tactfully ask whether the Member is using the information for their Ward or to assist a candidate in an election. If the latter is implied, Directors must only offer factual information to the Member that does not compromise impartiality (see 6 above). Normal briefings on agenda for Chairmen, Vice-Chairmen, and Cabinet members will continue throughout the Election Period.

**9. What material can I publish during the Election Period to members of the public?**

Directors can issue official press statements about the District Council's decisions on a factual basis for public information purposes without naming individual members, except where there is a genuine need for a Council comment or response at member level.

Political material should not be posted on official notice boards (or the website) for public consumption. This includes publicity issued by, or on behalf of, a trade union, as any such information would compromise officers in that it could be seen as giving support to a political party using Council facilities.

**10. Am I allowed to give professional advice during a Council meeting in the Election Period?**

Directors, Assistant Directors and other officers attend scheduled meetings of the Council and other bodies as arranged at the start of the Council year and must give advice on Council business as normal. Officers should be careful only to offer professional advice and factual information to Members in such circumstances and avoid expressing any views or opinions about political campaigns that could compromise their impartiality.

**11. I have been invited by a candidate to attend a political meeting or election meetings, what should I do?**

Directors, Assistant Directors and other officers are strictly forbidden to attend any political meeting of any sort in the Election Period.

**12. Can I meet with a candidate?**

Directors should be open to meeting with candidates for election if asked. In such meetings, they must not be drawn into discussing political views and opinions or campaign issues with candidates. Directors can only provide candidates with factual information during such meetings.

**13. Can I canvass or campaign for a candidate or political party?**

Senior positions with the Council like the Chief Executive, Deputy Chief Executive, Directors and Assistant Directors are subject to a legal restriction which prevents their involvement. These are known as politically restricted posts. Some other more junior staff may also

occupy such restricted posts such as those who brief the media or are involved in giving advice to Councillors. If your post is politically-restricted, canvassing or campaigning for a political party in any capacity is strictly forbidden. Those in such posts must not undertake work with a public political profile.

Staff who are not in a politically restricted post should check with their line-manager if they would like to become involved. If you are unsure whether you hold a politically-restricted post information is available in your job description, contract of employment, or from Human Resources.

#### **14. Can normal Council decision-making continue during the Election Period?**

In a landmark Court of Appeal judgement (“the Redcar Case”), the Courts found that decision making however controversial this might be should continue provided it is part of a process which was set in train before the election period started. However, what is ruled out is any manipulation of an ongoing process of decision for political purposes.

For instance, it would not be proper for a decision which might give advantage to one candidate or party to be brought forward so that it was taken during the election period to give an advantage at the polls. Likewise, it is not proper to ask officers to defer decisions from the election period for political reasons.

It is quite possible that the schedule of decisions to be taken during the Election Period could be changed for other reasons, but it must not be changed for political reasons.

#### **15. Does the Redcar Case mean that the Council can still make controversial decisions during the Election Period?**

Yes. The Council can take such decisions if there is a requirement to make them at that time. (e.g. planning decisions). However, officers should be wary of requests to manipulate such decision timetables for campaign reasons as explained in section 14.

#### **16. What should I do if I receive a request for a decision to be brought forward or to be deferred?**

All requests for earlier action or postponement by individual members (particularly from those who are candidates or thought to be assisting in an election campaign), should be treated with caution. Directors should seek further information and advice from the Monitoring Officer.

#### **17. What should I do in an emergency situation?**

If there is an emergency request brought forward to Directors that does not compromise impartiality then Directors must react. In an emergency or where there is a genuine need for a Director-level response to an important event outside the Council’s control, Directors should be able to comment, take action or seek member decisions if such a situation arises.

#### **18. Can Council premises be used for political meetings?**

During the Election Period there should be a presumption against political meetings being held on Council premises. Particular care needs to be taken in regard to venues such as public halls, elderly persons’ accommodation and sports centres where there may be restrictions governing the operation of such premises which preclude political activity.

If a request is made and it is not clear whether it relates to a political meeting, further information should be sought regarding the purpose of the event and the organiser. This may assist in deciding whether approval to the use of the accommodation is appropriate. In the event of any doubt, advice should be sought in accordance with section 19 below. If any premises are to be made available, they should be offered on an even-handed basis to all political parties.

#### **19. What happens during the rest of the Council Year?**

Staff should be clear that for the rest of the year, outside the Election Period, officers are still required to maintain a strict impartiality in dealing with political groups, the Council and individual members. This requirement is set out in the Council's constitution in a special protocol regarding the management of relations with political groups and in the officers' Code of Conduct which applies to all staff.

The same requirements are set out in the Code of Conduct for elected members, in which all Councillors are advised not to seek to compromise the impartiality of officers or their advice. If a member of staff is concerned that what they are being asked to do breaches the rules of impartiality, they must draw this to the attention of their line manager.

#### **20. Where Can I Obtain Advice?**

Please speak with your line manager in the first instance. Further advice is available from the following:

Monitoring Officer - Colleen O' Boyle (Ext 4475)  
Deputy Monitoring Officer - Simon Hill (Ext 4249)

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# Part 3

## Scheme of Delegation

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## **PART 3**

### **Scheme of Delegation**

1. Section 9D to 9DA 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.
2. 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 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 Committees**

- 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.

#### **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 to this Scheme 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.



**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 rules.

(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**

**Part 3**  
**Scheme of Delegation**  
**Appendix 1**

**Responsibility for local choice functions**

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

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**Part 3  
Scheme of Delegation  
Appendix 2**

**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 (including Select Committees)	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

**Part 3  
Scheme of Delegation  
Appendix 3**

**DELEGATION APPROVED BY OR ON BEHALF OF THE COUNCIL  
Approved by Full Council – April 2016**

	<b>Original Authority Details</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>CLA1</b>	Council - 29.10.85 (Minute 57(2))	<b>DIRECTOR OF GOVERNANCE</b>	<b>ACCESS TO INFORMATION ACT 1985 – PROPER OFFICER</b>  To act as Proper Officer for the purposes of the Act generally and in particular for the purposes of – Section 100(B)(2) – circulation of reports and agenda Section 100(B)(7)(c) – supply of documents to the press Section 100(C)(2) – summaries of minutes Section 100(D)(1)(a) – compilation of lists of background papers Section 100(D)(5)(a) – identification of background papers Section 100(F)(2) – papers not open to members
<b>CLA2</b>	Policy & Co-ordinating Committee (Minute 62(1) - 11.2.86)	<b>CHIEF EXECUTIVE SERVICE DIRECTORS</b>	<b>ACCESS TO INFORMATION ACT 1985 – DEPOSIT OF BACKGROUND DOCUMENTS</b>  Proper Officers for the purpose of Section 100(D)(1)(b) – provision of one copy of relevant background papers to be open for inspection by the public at all reasonable times.
<b>CLA3</b>	Policy & Co-ordinating Committee (Minute 56 – 30.9.97)	<b>DIRECTOR OF GOVERNANCE</b>	<b>AFFIDAVITS – SWEARING OF</b>  To secure sworn affidavits from any member of Council staff where required by the Council.
<b>CLA4</b>	Council (Minute 104(5) – 19.4.83)	<b>CHIEF EXECUTIVE SERVICE DIRECTORS</b>	<b>APPRAISAL OF TOP MANAGEMENT*</b> To implement the Council's scheme for staff performance development reviews (*NB. 'Top Management' includes Service Directors)  <b>APPRAISAL OF STAFF</b> To implement the Council's scheme for staff performance development reviews

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	<b>Original Authority Details</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b> (NB excluding Service Directors).
<b>CLA5</b>	Personnel Sub-Committee (Minute 13 – 7.6.88)	<b>CHIEF EXECUTIVE SERVICE DIRECTORS</b>	<b>ATTENDANCE ALLOWANCES FOR OFFICERS</b>  To authorise, in cases where the Service Directors determine that time off in lieu cannot be allocated due to workload, the attendance of such officers at any function or meeting and to grant payments on rates applicable for weekend working, in the same way as currently applies to Members' approved duties.
<b>CLB1</b>	Council (Minute 78(5) – 27.2.90)	<b>DIRECTOR OF RESOURCES</b>	<b>BORROWING DETERMINATION</b>  (a) To discharge all powers regarding sources of borrowing available to the Council under Section 43(2) of the Local Government and Housing Act 1989 subject to regular monitoring reports to the Cabinet, and  (b) To compile and maintain a register of loan instruments.
<b>CLB2</b>	Policy & Resources Committee (Minute 3 – 11.10.73)	<b>DIRECTOR OF GOVERNANCE</b>	<b>BYELAWS – CERTIFICATION</b>  To act as Proper Officer for the purposes of Section 238 of the Local Government Act 1972.
<b>CLB3</b>	Policy & Resources Committee (Minute 3 – 11.10.73)	<b>DIRECTOR OF GOVERNANCE</b>	<b>BYELAWS – PARISH &amp; COUNTY COUNCIL COPIES</b>  To act as Proper Officer for the purposes of Section 236(a) of the Local Government Act 1972.
<b>CLC1</b>	Policy & Co-ordinating Committee (Minute 48 – 3.12.85)	<b>CHIEF EXECUTIVE SERVICE DIRECTORS</b>	<b>CAR LEASING SCHEME</b>  (a) To approve applications from eligible staff under the Scheme;  (b) To check eligibility of applicants, approve ordering of vehicles, notify users of outcome of applications; and  (c) To be responsible for the financial administration of the Scheme;

	<b>Original Authority Details</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
	Cabinet (Minute 61 – 1.9.08) Personnel Sub-Committee (Minute 37 – 25.7.89)	<b>MANAGEMENT BOARD CHIEF EXECUTIVE SERVICE DIRECTORS</b>	(d) To determine essential car user status for relevant staff posts.  (e) To authorise early termination charges to members of staff with leased cars who receive redundancy notices;  (f) To determine the appropriate user business mileage contribution banding for each member of staff receiving authorisation for a leased car.
<b>CLC2</b>	Policy & Resources Committee (Minute 3 – 11.10.73)	<b>CHIEF EXECUTIVE</b>	<b>CHAIRMAN OF COUNCIL – CASUAL VACANCY</b>  To act as Proper Officer for the purposes of Section 88(2) of the Local Government Act 1972 (Convening of special Council meeting to fill casual vacancy in the office of Chairman of the Council).
<b>CLC3</b>	Finance Sub-Committee (Minute 13 – 14.11.73)	<b>DIRECTOR OF RESOURCES (or other duly authorised signatory)</b>	<b>CHEQUES – SIGNING</b>  To sign cheques on behalf of the Council.
<b>CLC4</b>	Council (Minute 90(4) – 22.4.97) S.O. F1(3), F1(4)	<b>MR R PALMER DIRECTOR OF RESOURCES (MR PETER MADDOCK, ASSISTANT DIRECTOR AS DEPUTY)</b>	<b>CHIEF FINANCIAL OFFICER</b>  Designated as Chief Finance Officer being the officer having responsibility under Section 151 of the Local Government Act 1972, Section 73 of the Local Government Act 1985 and Section 114 of the Local Government Finance Act 1988.
<b>CLC5</b>	Policy & Co-ordinating Committee (Minute 51 – 4.1.94)	<b>DIRECTOR OF RESOURCES</b>	<b>COLLECTION FUND</b>  To calculate the surplus or deficit on the Collection Fund in accordance with the Local Authorities (Funds) (England) Regulations 1992.

	<b>Original Authority Details</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>CLC6</b>	Council (Minute 90(4) – 22.4.97)	<b>CHIEF EXECUTIVE/ DEPUTY CHIEF EXECUTIVE/ DIRECTOR OF GOVERNANCE</b>  <b>ASSISTANT DIRECTOR (LEGAL SERVICES)</b>  <b>ASSISTANT DIRECTOR (GOVERNANCE &amp; PERFORMANCE MANAGEMENT)</b>	<b>COMMON SEAL – ATTESTATION OF</b>  To attest the Common Seal of the Council.
<b>CLC7</b>	Personnel Sub-Committee (Minute 13 – 15.11.73)	<b>CHIEF EXECUTIVE SERVICE DIRECTORS</b>	<b>COMPASSIONATE LEAVE</b>  To grant to staff up to five days leave (with pay) per year for compassionate reasons.  (Note: Leave in excess of five days to be granted at the discretion of the Management Board).
<b>CLC8</b>	Council (Minute 18 - 18.6.12)	<b>MONITORING OFFICER (or in the absence of, the DEPUTY MONITORING OFFICER)</b>	<b>CONDUCT OF COUNCILLORS</b> In accordance with Sections 26-37 of the Localism Act 2011: <ul style="list-style-type: none"> <li>(a) To determine whether a complaint merits formal investigation after consultation with the independent person;</li> <li>(b) To arrange any such investigation;</li> <li>(c) To seek resolution of complaints without formal investigations wherever practicable;</li> <li>(d) To submit regular reports to the Standards Committee on the exercise of this delegated authority under (a), (b) and (c) above;</li> <li>(e) To refer decisions on whether to investigate any complaint to the Standards Committee, if it is considered that this is appropriate;</li> </ul>

	<b>Original Authority Details</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
	Standards Committee (Minute 21 – 13.12.12)	<b>MONITORING OFFICER (or in the absence of, the DEPUTY MONITORING OFFICER)</b>	<p>(f) To close any complaint where an investigation finds no breach of the Code of Conduct, subject to the report and the findings from the investigation being provided to the subject councillor, the independent person and to the Standards Committee;</p> <p>(g) To seek local resolution of any complaint where an investigation finds evidence of a failure to comply subject to the following:  (1) consultation with the independent person and the complainant;  (2) a summary report being made to the Standards Committee on the action taken;</p> <p>(h) To refer any investigation report where local resolution is not possible to a hearing Sub-Committee of the Standards Committee for consideration;</p> <p>(i) To prepare, maintain and publish registers of members' interests in respect of this Council and all Parish and Town Councils in the District and to make these available for public inspection at the Civic Offices, Epping, on the District Council's website and (where appropriate) on the websites of parish and town councils; and</p> <p>(j) To determine applications for dispensations from the effect of Section 31(4) of the Localism Act 2011 in the following categories:  Section 33(2)(a) (Quorum)  Section 33(2)(b) (Political Balance)  Section 33(2)(d) (Executive Business)</p>
<b>CLC9</b>	Policy & Resources Committee (Minute 3 – 11.10.73)	<b>CHIEF EXECUTIVE</b>	<p><b>COUNCIL MEETINGS – NOTICES AS TO ADDRESSES FOR DELIVERY OF SUMMONS</b></p> <p>To act as Proper Officer in accordance with Schedule 12 (paragraph 4(3) of the Local Government Act 1972 as to the receipt of these notices.</p>
<b>CLC10</b>	Council (Minute 127 – 23.4.13)	<b>MONITORING OFFICER</b>	<p><b>CONSTITUTION – MINOR AMENDMENTS</b></p> <p>To make amendments to the Constitution as set out in the Article relating to Revision, Amendment and Suspension of the Constitution</p>

	<b>Original Authority Details</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>CLC11</b>	Policy & Resources Committee (Minute 3 – 11.10.73)	<b>CHIEF EXECUTIVE</b>	<b>COUNCIL MEETINGS – SIGNATURE OF SUMMONS TO ATTEND</b>  To act as Proper Officer in accordance with Schedule 12 (paragraph 4(2)(b) of the Local Government Act 1972 as to the signing of the summons.
<b>CLC12</b>	Policy & Resources Committee (Minute 3 – 11.10.73)  Council 28 May 2015 (Minute 12 – 28.5.15)	<b>CHIEF EXECUTIVE</b>  <b>DIRECTOR OF COMMUNITIES / DIRECTOR OF RESOURCES / DIRECTOR OF GOVERNANCE / DIRECTOR OF NEIGHBOURHOODS</b>	<b>COUNCILLORS – ACCEPTANCE OF OFFICE</b>  (a) To act as Proper Officer under Section 83(1)-(4) of the Local Government Act 1972 in respect of the witness and receipt of declarations and acceptances of office by councillors; and  (b) That in the absence through unavailability, absence, incapacity or vacancy to undertake the functions specified in the delegation.
<b>CLC13</b>	Policy & Resources Committee (Minute 3 – 11.10.73)	<b>CHIEF EXECUTIVE</b>	<b>COUNCILLORS – RESIGNATION FROM OFFICE</b>  To act as Proper Officer for the purposes of Section 84 of the Local Government Act 1972, in respect of the receipt of notices of resignation from office by councillors.
<b>CLC14</b>	Council (Minute 49 – 18.12.01)	<b>DIRECTOR OF GOVERNANCE</b>	<b>COUNCILLORS – SUBSTITUTES</b>  To receive notices from Group Leaders regarding the appointment of substitute members, subject to certain conditions.

	<b>Original Authority Details</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>CLC15</b>	Council (Minute 100(7) – 18.4.2000)	<b>DIRECTOR OF GOVERNANCE</b>	<b>COURT, TRIBUNAL, INQUIRY PROCEEDINGS – ENGAGEMENT OF STAFF AND ADVICE</b>  To appoint appropriate staff and/or external Solicitors and/or Counsel to appear for, conduct and settle proceedings on behalf of the Council in Courts, tribunals, inquiries and other similar venues.
<b>CLD1</b>	Council (Minute 78(4) – 17.2.85)	<b>DIRECTOR OF GOVERNANCE</b>	<b>DATA PROTECTION ACT 1984</b>  To act as Proper Officer for the purposes of the Data Protection Act 1984 for the receipt of notices.
<b>CLD2</b>	Council April 2016	<b>DIRECTOR OF GOVERNANCE</b>	<b>DEVELOPMENT MANAGEMENT</b>  To determine matters relating to Development Management Matter set out in Annex E to this schedule
<b>CLD3</b>	Finance Sub-Committee (Minute 67(iii) – 6.3.74)	<b>DIRECTOR OF RESOURCES</b>	<b>DIRECT DEBITING</b>  To execute a direct debiting indemnity on behalf of the Council.
<b>CLD4</b>	Policy & Co-ordinating Committee (Minute 44 – 29.11.83)	<b>SERVICE DIRECTORS/ DIRECTOR OF RESOURCES</b>	<b>DISTURBANCE COMPENSATION</b>  To grant disturbance allowances following home loss in appropriate cases and subject to the budgetary provision of the Council, in any one year, not being exceeded and in accordance with the Land Compensation Acts.
<b>CLD5</b>	Policy & Resources Committee (Minute 3 – 11.10.73)	<b>DIRECTOR OF GOVERNANCE</b>	<b>DOCUMENTS – AUTHENTICATION</b>  To act as Proper Officer for the purposes of Section 234(1) – (2) of the Local Government Act 1972 for the purposes of authentication of documents.
<b>CLD6</b>	Policy & Resources Committee (Minute 3 – 11.10.73)	<b>DIRECTOR OF GOVERNANCE</b>	<b>DOCUMENTS – CERTIFICATION OF PHOTOGRAPHIC COPIES</b>  To act as Proper Officer for the purposes of Section 229(5) of the Local Government Act 1972 for the purposes of certifying photographic copies of documents.

	<b>Original Authority Details</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>CLD7</b>	Policy & Resources Committee (Minute 3 – 11.10.73)	<b>DIRECTOR OF GOVERNANCE</b>	<b>DOCUMENTS – DEPOSIT</b>  To act as Proper Officer for the purposes of Section 225(1) of the Local Government Act 1972 in relation to the deposit of documents.
<b>CLD8</b>	Standing Order A32 Council (Minute 24(1) – 9.7.91)	<b>CHIEF EXECUTIVE (or in his absence the DEPUTY CHIEF EXECUTIVE)</b>	<b>DOCUMENTS – INSPECTION AND SUPPLY FOR COUNCILLORS</b>  To determine requests by members of the Council to inspect or to be provided with copies of Council documents.
<b>CLE1</b>	Council Minute – 19.4.05	<b>G CHIPP CHIEF EXECUTIVE  (Deputy registration officer : TBD)</b>	<b>ELECTORAL MATTERS</b>  <b>(a) Registration Officer under section 8(2)(a) of the Representation of the People Act (RPA) 1983 and</b>  <b>(i) through Section 28 of the RPA, Acting Returning Officer for the purposes of UK Parliamentary elections; and</b>  <b>(ii) through Section 6 of the European Elections Act 2002, Local Returning Officer for European Parliamentary elections.</b>  <b>(Duties:</b> responsibility for the electoral register, for EU parliamentary elections (under the direction of the Regional Returning Officer) and for UK Parliamentary elections.)  <b>(b) Counting Officer for the purposes of Section 61E of the Town &amp; Country Planning Act 1990 and the Localism Act 2011 (Section 116)</b>  <b>(Duties:</b> responsibility for the local referendums on Neighbourhood Plans)  <b>(c) District Returning Officer for the Epping Forest District under Section 35(1) of the RPA 1983</b>  <b>(Duties:</b> responsibility for the conduct of District Council/Parish Council elections and, through Sections 52ZQ and 113 of Local Government Finance Act 1992, Proper Officer for local referendums in connection with Council Tax precepts.)  <b>(d) Proper Officer under Sections 34, 35 and 105(2) of the Local Government Act</b>

	Original Authority Details	Officer(s) Authorised	Subject and Function(s) Delegated
			<p><b>2000</b></p> <p>(Duties: responsibility for petitions and referendums in connection with the Executive Constitution of the Council).</p> <p><b>(e) Nominated Deputy County Returning Officer under Section 35(1) of the RPA 1983</b></p> <p>(Duties: responsibility for County Council elections as appointed by and under the direction of the County Returning Officer.)</p> <p><b>(f) Nominated Local Returning Officer under Section 54 of the Police &amp; Social Responsibility Act 2011</b></p> <p>(Duties: conduct of elections for Police &amp; Crime Commissioners under the direction of County Returning Officer.)</p> <p><b>(g) Nominated Local Counting Officer for the purposes of Section 128 of the Political Parties, Elections and Referendums Act 2000.</b></p> <p>(Duties: conduct of national referendums under the direction of the Chief Counting Officer (i e the Chief Executive of the Electoral Commission).</p>
<b>CLE2</b>	Council Minute 75(8) – 14.12.04	<b>G CHIPP RETURNING OFFICER (With effect from 15 June 2014)</b>	<p><b>ELECTIONS – DISCRETIONARY FEES AND CHARGES</b></p> <p>To determine annually the scale of discretionary fees and charges, for which there is no statutory amount, by allowing for inflation and rounding up to the nearest whole number.</p>
<b>CLE3</b>	Council Minute 115 – 19.4.05	<b>G CHIPP RETURNING OFFICER (With effect from 15 June 2014)</b>	<p><b>ELECTIONS – FEES AND EXPENSES</b></p> <p>To determine the scale of fees and expenses payable by the Returning Officer at elections of District and Parish Councils, adjusting the schedule for inflation and rounding up to the nearest whole number.</p>
<b>CLE4</b>	Policy & Co-ordinating Committee (Minute 101 – 1.12.98)	<b>DIRECTOR OF GOVERNANCE</b>	<p><b>ELECTORAL REGISTRATION – PROSECUTIONS</b></p> <p>To institute and pursue proceedings in relation to electoral registration offences.</p>



	<b>Original Authority Details</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>CLG2</b>	District Development Control Committee (Minute 49 (3) - 26.6.13)	<b>DIRECTOR OF COMMUNITIES</b>	<b>GROWTH AND INFRASTRUCTURE ACT 2013</b>  To determine applications received under Section 7 to modify, remove or discharge affordable housing obligations, subject to:  (a) Prior consultation with the Director of Governance; the Chairman (or in his/her absence, the Vice-Chairman) of the relevant Area Plans Sub-Committee and local ward members; and  (b) Details of the application and the resultant Determination being reported in the following issue of the Council Bulletin.
<b>CLH1</b>	Development Committee (Minute 31 – 25.8.92)	<b>DIRECTOR OF GOVERNANCE</b>	<b>HAZARDOUS SUBSTANCES</b>  To determine applications for hazardous substances consent under the Planning (Hazardous Substances) Regulations 1992 except where there are objections from interested parties, which shall be determined by the Plans Sub-Committees.
<b>PLH2</b>	Council (Minute 12(11)(a) – 27.2.90)	<b>CHIEF EXECUTIVE (or in his absence the DEPUTY CHIEF EXECUTIVE)</b>	<b>HEAD OF PAID SERVICE</b>  In accordance with Section 4 of the Local Government and Housing Act 1989 designated as Head of the Authority's Paid Service.

	Original Authority Details	Officer(s) Authorised	Subject and Function(s) Delegated
CLH3	<p>Council (Minute 54(4) – 20.12.77)</p> <p>Personnel Sub-Committee (Minute 49(6) – 4.10.88)</p>	<p><b>CHIEF EXECUTIVE</b></p> <p><b>SERVICE DIRECTORS</b></p> <p><b>ALL MANAGERS OR SUPERVISORS RESPONSIBLE FOR ONE OR MORE STAFF</b></p>	<p><b>HEALTH AND SAFETY AT WORK – IMPLEMENTATION</b></p> <p>(a) To be responsible on behalf of the Council for the general policy for the safety, health and welfare of employees as set out in the Council’s statement of policy;</p> <p>(b) To be directly responsible for the implementation in each Directorate of the Council’s general policy for safety, health and welfare;</p> <p>(c) To ensure that adequate budgetary provision is made to meet the cost of any safety programme; and</p> <p>(d) To be responsible in the work area under their control for:</p> <p>(i) implementation of general policy of health, safety and welfare;</p> <p>(ii) annual review of work areas to assess training needs and priorities for improvements;</p> <p>(iii) identification of hazards for employees and the public;</p> <p>(iv) consultation with employee representatives on safety matters; and</p> <p>(v) setting an example in safe behaviour.</p>

	<b>Original Authority Details</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>CLH4</b>	Council (Minute 52(c) – 12.12.00)	<b>DIRECTOR OF GOVERNANCE (or nominated Deputy)</b>	<b>HIGH COURT ACTION</b>  To instigate High Court action in the following circumstances:  (a) appeals lodged in accordance with Sections 288 and 289 of the Town and Country Planning Act 1990 (as amended) which shall be authorised by the Director of Governance;  (b) applications for High Court injunctions to secure planning enforcement under the Town and Country Planning Act 1990 (as amended) which shall be authorised by the District Development Control Committee or an Area Plans Sub-Committee, or to deal with breaches of Abatement Notices under the Environment Act 1995 or Amendments thereof which shall be authorised by the Cabinet;  (c) any applications for High Court injunctions where immediate emergency action is required to prevent serious distress to public safety or residential amenity which shall be authorised by the Director of Governance in consultation with the appropriate Portfolio Holder.  (d) any other category of High Court action which shall not admit of delay resulting from reference to the full Council – which shall be authorised by the Cabinet or any appropriate committee or subcommittee; and  (e) to make applications in consultation with the appropriate members under High Court injunctions where immediate emergency action is required to prevent serious distress to public safety or residential amenity.
	Council (Minute 100(5) – 18.4.00)	<b>DIRECTOR OF GOVERNANCE (or nominated Deputy)</b>	To defend High Court Proceedings instituted against the Council (subject to reporting on action taken to the next Cabinet meeting).
<b>CLI1</b>	Council (Minute 34 – 22.7.97)	<b>DIRECTOR OF GOVERNANCE</b>	<b>INSOLVENCY – ENFORCEMENT OF DEBTS</b>  To issue statutory demands pursuant to Section 268(1)(a) of the Insolvency Act 1986.  To take steps to enforce a debt following the commencement of bankruptcy proceedings, subject to action taken being reported to the next appropriate Cabinet

	<b>Original Authority Details</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
			meeting.
<b>CLI2</b>	Council (Minute 100(6) – 18.4.2000)	<b>DIRECTOR OF RESOURCES (or nominated Deputy)</b>	<b>INSURANCE – INSTITUTION OF LEGAL PROCEEDINGS</b>  To institute, defend, appeal, withdraw or agree a compromise in connection with any legal proceedings concerning the Council’s insurance matters, subject to reporting on any significant issues to the next appropriate Cabinet meeting.
<b>CLL1</b>	Policy & Resources Committee (Minute 3 – 11.10.73)	<b>DIRECTOR OF GOVERNANCE</b>	<b>LAND CHARGES</b>  To act as proper officer to the Council for the purposes of Section 212(1) and (2) of the Local Government Act 1972 (local registrar of land charges)
<b>CLL2</b>	Cabinet (Minute 184 – 10.4.06)	<b>DIRECTOR OF NEIGHBOURHOODS ASSISTANT DIRECTOR (NEIGHBOURHOOD SERVICES)</b>  <b>Appropriate Portfolio Holder</b>	<b>LICENSING</b>  To authorise suitably qualified officers to exercise those functions relating to licensing set out in the attached list of environmental health legislation as set out in Annex B, subject to the policies from time to time agreed by the Licensing Committee.  To delegate appropriate powers to the Director of Neighbourhoods relating to the management and provision of service set out in the attached list of environmental health legislation as set out in Annex B.
<b>CLL3</b>	Licensing Committee (Minute 12 – 15.10.08)	<b>DIRECTOR OF NEIGHBOURHOODS ASSISTANT DIRECTOR (NEIGHBOURHOOD SERVICES) SENIOR LICENSING OFFICER or suitably qualified officer authorised by them</b>	<b>LICENSING – HACKNEY CARRIAGE AND PRIVATE VEHICLE LICENCES</b>  To determine Licences in respect of hackney carriage and private hire licensing (as set out in Annex C) except in those circumstances where under the Council’s policy they stand referred to the Licensing Sub Committee (see Minute 12 opposite).

	<b>Original Authority Details</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>CLL4</b>	Council (Minute 48 – 26.9.13)	<b>DIRECTOR OF NEIGHBOURHOODS ASSISTANT DIRECTOR (NEIGHBOURHOOD SERVICES)</b>	<b>LICENSING – SCRAP METAL DEALERS ACT 2013</b>  To implement Annex D (Schedule of delegations under the Act) insofar as they relate to matters to be undertaken by officers.  To authorise officers to carry out inspections of the sites and vehicles used and conduct investigations and to issue and undertake prosecutions that may arise under the Act.
<b>CLL5</b>	Policy & Co-ordinating Committee (Minute 24(2) – 8.10.91)	<b>DIRECTOR OF RESOURCES</b>	<b>LOCAL GOVERNMENT AND HOUSING ACT 1989 – DETERMINATIONS UNDER PART IV</b>  To make determinations under the following sections of the Local Government and Housing Act 1989:  Section 42(2)(g) – Reimbursable expenditure Sections 50(3)(b) and 60(2) – Usable capital receipts
<b>CLL6</b>	Council (Minute 24(1)(2) – 9.7.91)	<b>DIRECTOR OF RESOURCES</b>	<b>LOCAL GOVERNMENT AND HOUSING ACT 1989 – PROPER OFFICER DESIGNATIONS</b>  Proper Officer designations made for the purposes of the Sections of the Local Government and Housing Act 1989 indicated:  <b>Section and Purpose</b>  <b>Section 2 (preparation and maintenance of lists of politically restricted posts).</b>  <b>Section 37 (deposit and preparation of statements as to the provision of financial assistance).</b>
<b>CLM1</b>	Council (Minute 34 – 22.7.97) (Minute 168 - 20.4.10)	<b>DIRECTOR OF GOVERNANCE</b>  <b>ASSISTANT DIRECTOR (LEGAL SERVICES)</b>	<b>MAGISTRATES' AND COUNTY COURTS – DEFENCE AND PURSUIT OF PROCEEDINGS</b>  To institute, defend, pursue and settle proceedings on behalf of the Council and to appear on the Council's behalf, in any proceedings before the Magistrates' and County Courts.
	Personnel Sub-Committee	<b>MR G OAKLEY</b>	To appear for the Council in legal proceedings pursuant to Section 223(1) of the Local

	<b>Original Authority Details</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
	(Minute 88 – 21.11.89 and 88(b) – 1.12.92)	<b>(MANAGING LEGAL EXECUTIVE)</b>	Government Act 1972 and Section 60(2) of the County Courts Act 1982.
<b>CLM2</b>	Council April 2016	<b>DIRECTOR OF GOVERNANCE</b>	<b>MALADMINISTRATION – POWER TO MAKE PAYMENTS OR PROVIDE OTHER REMEDIES</b>  The power to make payments or provide other remedies in cases of maladministration, or in cases by individuals which amount to or could amount to maladministration by the Council.
<b>CLM3</b>	Council (Minute 10 – 15.5.2001)  Council (Minute 70 – 6.11.12)  Council (Minute 10 – 15.5.01)	<b>DIRECTOR OF GOVERNANCE</b>  <b>DIRECTOR OF GOVERNANCE</b>  <b>ASSISTANT DIRECTOR (GOVERNANCE &amp; PERFORMANCE MANAGEMENT)</b>	<b>MONITORING OFFICER AND DEPUTY</b>  To act as Monitoring Officer in accordance with Section 5 of the Local Government and Housing Act 1989 and Sections 26-37 of the Localism Act 2011 for the purpose of performing the duties imposed by those sections.  To be responsible for any Parish or Town Councils which are affiliated for the time being to the Epping Forest Standards Committee under Chapter 7 of the Localism Act.  To act as Deputy Monitoring Officer with the power to act in the absence or during any illness of the Monitoring Officer in accordance with Section 5 of the Local Government and Housing Act 1989.
<b>CLO1</b>	Policy and Resources Committee (Minute 3(3) – 11.10.73)	<b>DIRECTOR OF RESOURCES</b>	<b>OFFICERS – RECEIPT OF MONEY DUE</b>  To act as Proper Officer for the purposes of Section 115 of the Local Government Act 1972).
<b>CLO2</b>	Council (Minute 86 – 15.2.05)	<b>DIRECTOR OF GOVERNANCE</b>	<b>OMBUDSMAN – NOTICES</b>  To act as proper officer for the purposes of Section 30(5) of the Local Government Act 1974 (publication of notice on receipt of a report from the Local Ombudsman).

	<b>Original Authority Details</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>CLP1</b>	Council (Minute 87 – 15.2.05)	<b>G CHIPP RETURNING OFFICER (With effect from 15 June 2014)</b>	<b>PARISH POLLS</b>  To act as Returning Officer for the purposes of a Parish Poll in the District in accordance with the Parish and Community Meetings (Polls) Rules 1987,
<b>CLP2</b>	Personnel Sub-Committee (Minute 139 – 20.3.90)	<b>DIRECTOR OF RESOURCES</b>	<b>POLITICALLY RESTRICTED POSTS</b>  (a) To notify all politically restricted postholders of their designations; (b) To incorporate the designation as to politically restricted status in contracts of employment; and (c) To maintain and issue revised lists when necessary and notify the independent Adjudicator.
<b>CLP3</b>	Policy and Resources Committee (Minute 3 – 11.10.73)	<b>DIRECTOR OF GOVERNANCE</b>	<b>PROTECTED BUILDINGS</b>  To act as Proper Officer for the purposes of paragraph 28 of Schedule 16 to the Local Government Act 1972 (receipt and deposit of lists of protected buildings).
<b>CLR1</b>	Council (Minute 117 – 20.4.04)	<b>MONITORING OFFICER</b>	<b>REGISTRATION OF INTERESTS – DISTRICT COUNCIL</b>  Receipt, custody and public deposit of registration of interests of District Councillors under the Local Government Acts 2000 and 2007 and regulations made thereunder.
<b>CLR2</b>	Council (Minute 117 - 20.4.04)	<b>MONITORING OFFICER</b>	<b>REGISTRATION OF INTERESTS – TOWN AND PARISH COUNCILS</b>  Receipt, custody and public deposit of registration of interests of Parish and Town Councillors in accordance with the Local Government Acts 2000 and 2007 and regulations made thereunder.

	Original Authority Details	Officer(s) Authorised	Subject and Function(s) Delegated												
CLR3	Council (Minute 23 – 15.5.08) as amended by Council 28 May 2015	<p><b>DIRECTOR OF GOVERNANCE</b></p> <p><b>CHIEF EXECUTIVE</b></p> <p><b>ASSISTANT DIRECTOR(GOVERNANCE &amp;PERFORMANCE MANAGEMENT)</b></p> <p><b>SENIOR LAWYER</b></p> <p><b>EXECUTIVE ASSISTANT (GOVERNANCE)</b></p>	<p><b>REGULATION OF INVESTIGATORY POWERS ACT (RIPA) 2000 – as amended by the Protection of Freedoms Act 2012 -DESIGNATION OF SENIOR RESPONSIBLE OFFICER, AUTHORISING OFFICERS and RIPA COORDINATOR</b></p> <p>For the purposes of RIPA and regulations or orders made thereunder , the following officers of the Council be appointed to the roles specified, to exercise on behalf of the Council, the power to administer and give initial authorisation of covert surveillance :</p> <table border="1"> <thead> <tr> <th data-bbox="1034 405 1323 440">Role</th> <th data-bbox="1323 405 2181 440">Purpose</th> </tr> </thead> <tbody> <tr> <td data-bbox="1034 475 1323 542"><b>Senior Responsible Officer (SRO)</b></td> <td data-bbox="1323 507 2181 609">To ensure compliance with the Act and associated Codes of Practice. To liaise with Commissioners and Inspectors and implement any post-inspection actions.</td> </tr> <tr> <td data-bbox="1034 676 1323 711"><b>Authorising Officer</b></td> <td data-bbox="1323 676 2181 778">To consider and a give initial authorisation of covert surveillance, whether directed or covert human intelligence source, if confidential material is likely to be captured</td> </tr> <tr> <td data-bbox="1034 813 1323 849"><b>Authorising Officer</b></td> <td data-bbox="1323 813 2181 916">To consider and a give initial authorisation of covert surveillance, whether directed or covert human intelligence source,</td> </tr> <tr> <td data-bbox="1034 1018 1323 1053"><b>Authorising Officer</b></td> <td data-bbox="1323 1018 2181 1120">To consider and a give initial authorisation of covert surveillance, whether directed or covert human intelligence source,</td> </tr> <tr> <td data-bbox="1034 1155 1323 1190"><b>RIPA Coordinator</b></td> <td data-bbox="1323 1155 2181 1216">To maintain a central record of refusals, authorisations and cancellations as directed by the SRO.</td> </tr> </tbody> </table>	Role	Purpose	<b>Senior Responsible Officer (SRO)</b>	To ensure compliance with the Act and associated Codes of Practice. To liaise with Commissioners and Inspectors and implement any post-inspection actions.	<b>Authorising Officer</b>	To consider and a give initial authorisation of covert surveillance, whether directed or covert human intelligence source, if confidential material is likely to be captured	<b>Authorising Officer</b>	To consider and a give initial authorisation of covert surveillance, whether directed or covert human intelligence source,	<b>Authorising Officer</b>	To consider and a give initial authorisation of covert surveillance, whether directed or covert human intelligence source,	<b>RIPA Coordinator</b>	To maintain a central record of refusals, authorisations and cancellations as directed by the SRO.
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	<b>Original Authority Details</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>CLR4</b>	Policy & Co-ordinating Committee (Minute 3 – 11.10.73)	<b>DIRECTOR OF GOVERNANCE</b>	<b>RESOLUTIONS – CERTIFICATION</b>  To act as Proper Officer for purposes of paragraph 25 of Schedule 4 to the Local Government Act 1972 (certification of resolutions).
<b>CLR5</b>	Council (Minute 29 – 28.6.11)  Council (Minute 29 – 28.6.11)	<b>DIRECTOR OF GOVERNANCE</b> <b>DIRECTOR OF NEIGHBOURHOODS</b>	<b>RE-USE OF PUBLIC SECTOR INFORMATION REGULATIONS 2005</b>  To be responsible in accordance with the Council's policy for administering requests for information under the Re-use of Public Sector Information Regulations 2005, including the level of fees and charges to be made if information supplied is to be re-used.  To be responsible for administering requests under the 2005 Regulations in respect of use of CCTV data, taking account of the Council's policy and charging arrangements.
<b>CLS1</b>	Personnel Sub-Committee (Minute 2 – 4.10.73) (As amended by Personnel Sub-Committee Minute 169 – 26.9.78)	<b>CHIEF EXECUTIVE SERVICE DIRECTORS</b>	<b>STAFF – APPOINTMENTS PROCEDURE</b>  To make all external appointments to each service in respect of posts graded below Assistant Director level except appointments where member involvement is considered desirable.
<b>CLS2</b>	Policy & Co-ordinating Committee (Minute 59(b) – 8.2.94)	<b>CHIEF EXECUTIVE SERVICE DIRECTORS</b>	<b>STAFF – MISCELLANEOUS DELEGATIONS</b>  To determine staff issues in terms of grading, structure and local conditions of service (including car leases, posts requiring an increase in hours of up to 1 or 2 per week, creation of junior posts in direct substitution of more senior ones, restructurings which reduce the number of posts and costs within a section, minor re-ranging subject to prior consultation with staff representatives, no increase in budget, maintenance of a register.
<b>CLS3</b>	Council (Minute 90(5) – 23.2.82)	<b>MANAGEMENT BOARD (in consultation with appropriate Service Director and the Portfolio Holder with responsibility for Finance)</b>	<b>STAFF – RETIREMENT</b>  To offer enhanced early retirement and redundancy under the terms of the superannuation scheme or gratuity scheme to appropriate staff where the resultant vacated posts can be made available for redeployment of otherwise redundant employees.

	<b>Original Authority Details</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>CLT1</b>	Development Committee (Minute 73 – 2.3.93)  (Minute 108 – 6.3.01)	<b>DIRECTOR OF GOVERNANCE</b>	<b>TELECOMMUNICATIONS EQUIPMENT</b>  To determine, after prior consultation with ward councillors, whether the prior approval of the Council should be required to the siting and appearance of notified development under the Town and Country Planning (General Permitted Development) Order 1995.  To exercise the above-mentioned authority in consultation with the Chairman of the appropriate Committee or Sub-Committee and all ward councillors in respect of those proposals submitted in accordance with the prior approvals procedure where the Director of Governance consider that an objection should not be raised to the development but where opposition has been received.
<b>CLT2</b>	Resource Committee (Minute 40 – 28.9.93)	<b>DIRECTOR OF RESOURCES</b>  <b>DIRECTOR OF RESOURCES (or staff delegated to act)</b>	<b>TREASURY MANAGEMENT</b>  (a) To have control of the aggregated monies under Section 151 of the LGA 1972.  (b) To be responsible for all executive decisions on borrowing, investment or financing under Section 151 subject to a requirement to act in accordance with the CIPFA Code for Local Authorities.
<b>CLT3</b>	Council decision April 2016	<b>DIRECTOR OF GOVERNANCE</b>	<b>TREES, CONSERVATION AND RELATED FUNCTIONS</b>  To be responsible for delegations set out in Annex F to this schedule
<b>X</b>	<b>NIL</b>		
<b>Y</b>	<b>NIL</b>		
<b>Z</b>	<b>NIL</b>		

**GAMBLING ACT 2005 – TABLE OF DELEGATIONS OF LICENSING FUNCTIONS  
DIRECTOR OF NEIGHBOURHOODS**

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COUNCIL</b>	<b>SUB-COMMITTEE</b>	<b>ALL OFFICERS</b>
Three-year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting – when appropriate			X (to be approved by Executive Councillor)
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

**DIRECTOR OF NEIGHBOURHOODS**

**LICENSING**

**Charities Act 1992**

Part III (Street Collections)

**Local Government (Miscellaneous Provisions) Act 1976**

S16 (Power to obtain particulars of Persons interested in Land)

**Local Government (Miscellaneous Provisions) Act 1982**

Sections 14, 15, 16 and 17 (Acupuncture, Tattooing, Ear Piercing and Electrolysis)

Section 37 (Temporary Markets)

Schedule 3 Paragraphs 7, 8, 9, 10, 13, 15 to 19 and 25 (Control of Sex Establishments)

Schedule 4 paragraphs 7, 9 and 10 (Street Trading)

**Hackney Carriage and Private Hire Licences**

**Town and Police Clauses Act 1847** (Sections 37, 41, 42, 43, 45, 46, 47, 50, 68)  
(except temporary road closures which are the subject of objections which shall be dealt with by the Licensing Sub-Committee)

**Town and Police Clauses Act 1889** (Sections 4, 5 and 6)

**Local Government (Miscellaneous Provisions) Act 1976 (Part II)**

**LICENSING ACT 2003 – LIST OF FUNCTIONS AND DELEGATED AUTHORITY TO DIRECTOR OF NEIGHBOURHOODS**

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim Authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Decision to object when local authority is acting as a Responsible Authority			All cases
Determination of an objection to a temporary event notice		All cases	
Determination of application to vary licence at community premises to include alternative licence conditions		If a police objection	All other cases

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Decision whether to consult other responsible authorities on minor variation			All cases
Determination of minor variation			All cases
All policy matters except the formulation of the statement of licensing policy	All cases		

**Annex D**

**SCRAP METAL DEALERS ACT 2013 - DELEGATION OF POWERS TO THE DIRECTOR OF NEIGHBOURHOODS**

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COUNCIL</b>	<b>SUB-COMMITTEE</b>	<b>OFFICERS</b>
Licensing policy	All cases		
Fee Setting - when appropriate	All fees		
Application for or renewal of a Site or Collector's licences		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
To issue a closure notice on non-residential premises being used as a scrap metal dealer's site		All cases	All cases
Application to the Magistrates Court for a closure order		All cases	All cases
Termination of a closure order		All cases	All cases
Application to the Magistrates Court to discharge a closure order.		All cases	All cases
Revocation of a licence		All cases	All cases
Consideration of and imposition of conditions		All cases	All cases

**DEVELOPMENT CONTROL FUNCTIONS – Delegation to the Director Of Governance**

Function	Principal Relevant Legislation (*see note)	Relevant Details	Exceptions
<p><b>Care of the Environment</b></p> <p><b>District Development Control Committee</b> (Minute 30 – 12.10)</p>	<p>Town and Country Planning (Environmental Impact Assessments) (England and Wales) Regulations 1999</p> <p>Planning (Hazardous Substances) Act 1990, Section 36, 36A and 36B</p> <p>Planning (Hazardous Substances) Regulations 1992</p>	<p>To determine the need for and scope of environmental impact assessments required under the Town and Country Planning Acts.</p> <p>To determine applications for hazardous substances consent except those where there are objections from interested parties, which shall be determined by the relevant Area Planning Sub-Committee.</p> <p>To use necessary powers of entry to the land in relation to the above and duly authorise officers and agents engaged by the Council to use the relevant powers of entry as necessary.</p>	<p>No</p>
<p><b>Development Control</b></p> <p><b>District Development Control Committee</b> (Minute 30 – 7.2.10)</p> <p><b>Council Minute 29 – 28.6.11</b></p>	<p>Town and Country Planning Act 1990 - Section 70, 70(A), 191-3, 324, 325</p> <p>Planning and Compensation Act 1991, Section 10</p> <p>Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, Part 1, Reg. 16-19</p> <p>Town and Country Planning (Development Management Procedure) (England) Order 2010, Part 6, Article 35</p> <p>Town and Country Planning (Control</p>	<p>1. Subject to Appendix A below, which are matters to be determined by Committee, to determine or decline to determine any:</p> <p>(a) planning applications;</p> <p>(b) applications for approval of reserved matters;</p> <p>(c) applications arising from any condition imposed on any consent, permission order or notice;</p> <p>(d) advertisement consents; and</p> <p>(e) listed buildings.</p> <p>2. To agree the precise wording of additional/revised conditions to be attached to planning permissions, at members' request, and discharge of conditions.</p> <p>3. To determine whether a 28 day prior approval application of the method</p>	<p>Yes (See Appendix A to this Schedule)</p>

Function	Principal Relevant Legislation (*see note)	Relevant Details	Exceptions
	<p>of Advertisements) (England) Regulations 2007, Part 3, Reg. 14-15 Town and Country Planning General Permitted Development Order 1995, Part 6 and Part 31 of Schedule 2 As amended by SI2008 No. 2362 and 5</p> <p>Town and Country Planning (Development Management Procedure) (Amendment) (England) Order 2013</p>	<p>of any proposed demolition and any proposed site restoration is required and to give such approval where required.</p> <p>4. In relation to prior approval of telecommunications equipment, to determine, after prior consultation with ward Councillors in cases where a valid planning objection has been made, whether the prior approval of the Council should be required to the siting and appearance of notified development.</p> <p>5. In relation to agricultural development, to determine whether to require the formal submission of details.</p> <p>6. Subject to Appendix A(g), to determine applications in relation to certificates of lawful use and development.</p> <p>7. To use necessary powers of entry to the land in relation to the above and duly authorise officers and agents engaged by the Council to use the relevant powers of entry as necessary.</p> <p>8. To determine or decline to determine any non-material amendments.</p> <p>9. Subject to consultation with Ward Members in the cases where a valid objection has been made and are minded to grant, to determine applications for prior approval.</p> <p>Note: The categories of Prior Approval in operation at any particular time can be confirmed by the Assistant Director (Development Management).</p>	

Function	Principal Relevant Legislation (*see note)	Relevant Details	Exceptions
<b>Enforcement</b>  <b>District Development Control Committee (Minute 30 – 7.12.10)</b>	<p>Town and Country Planning Act 1990 (as amended), Part 7, section 171-190, 196 A, B, C, 198-200 214(A)-(D), 215-219, 220 or 221, 224, 225, 325 and 330</p> <p>Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 5, sections 27 and 30</p> <p>Planning (Listed Buildings and Conservation Areas) Act 1990, Chapter 4, sections 38, 88, 88A and 88B</p> <p>Local Government (Miscellaneous Provisions) Act 1982 (Section 37)</p>	<p>Authority for Director of Governance to:</p> <ol style="list-style-type: none"> <li>1. Issue Stop Notices, Temporary Stop Notices, Enforcement Notices, Breach of Conditions Notices, Building Preservation Notices, Listed Buildings Enforcement Notices, Planning Contravention Notices, Conservation Area Notices, Discontinuance Notices in respect of advertisements and Section 215-219 Notices for all breaches of planning legislation, in accordance with the Council's adopted enforcement policy.</li> <li>2. Prosecute the unauthorised display of advertisements, unauthorised works to a listed building, and non-compliance where enforcement action has previously been authorised.</li> <li>3. Take appropriate enforcement action, including serving an injunction where the Director of Governance or their nominee, having regard to the evidence considers the circumstances to require urgent action.</li> <li>4. Investigate if a temporary market has been held in breach of Section 37 of the 1982 Act.</li> <li>5. Vary the requirements for compliance with notices already authorised, including altering the period required for compliance, service of further notices and withdrawal of notices.</li> <li>6. Determine when action is not expedient in relation to breaches of control considered inconsequential or insignificant.</li> <li>7. To use necessary powers of entry to the land in relation to the above and duly authorise officers and agents engaged by the Council to use the relevant powers of entry as necessary.</li> </ol>	
	<p>Town and Country Planning Act 1990 (Section 178) (Council Minute 126 – 23.4.13)</p>	<ol style="list-style-type: none"> <li>8. To authorise direct action (or re-charge the cost of that action) in pursuit of a valid enforcement notice under Section 178.</li> </ol>	<p>Subject to budget provision being available and to local District Councillors being notified</p>

## APPENDIX A: MATTERS TO BE DETERMINED BY THE RELEVANT COMMITTEE

- (a) Applications contrary to the provisions of an approved draft Development Plan or Development Plan, and which are recommended for approval;
- (b) Applications contrary to other approved policies of the Council, and which are recommended for approval;
- (c) Applications for major commercial and other developments, (e.g. developments of significant scale and/or of wide concern) and which are recommended for approval;
- (d) Applications for residential development consisting of 5 dwellings or more (unless approval of reserved matters only) and which are recommended for approval);
- (e) The Council's own applications on its land or property which are for disposal;
- (f) Those applications recommended for approval where there are more than two expressions of objections received, material to the planning merits of the proposal to be approved, apart from approvals in respect of householder type developments, telecommunication masts, shop fronts and vehicular crossovers and "other" category developments (changes of use, advertisements, listed building consents), where more than four expressions of objections material to the planning merits of the proposal to be approved are received;  
  
Applications including certificates of lawfulness in respect of existing use and development, recommended for approval contrary to an objection from a local council which are material to the planning merits of the proposal;  
  
Applications referred by a District Councillor, whose own ward must be within the remit of the relevant Area Plans Sub-Committee and who has firstly notified the relevant Ward Councillors in advance, so long as the referral has been requested in writing to Officers within 4 weeks of that applications notification in the weekly list;
- (i) Applications where the recommendation conflicts with a previous resolution of a Committee;
- (j) Applications submitted by or on behalf of a Councillor of the Authority (and/or spouse/partner) or on behalf of a member of staff of Development Control Division of the Governance Directorate and the Forward Planning and Economic Development Division of the Neighbourhoods Directorate (and/or spouse/partner) and also in those cases where a councillor is an objector in a purely personal capacity;
- (k) Any other application which the Director of Governance considers it expedient or appropriate to present to committee for decision (e.g. those raising issues not covered by existing policies, or of significant public interest, or those with a significant impact on the environment);
- (l) An application which would otherwise be refused under delegated powers by the Director of Governance but where there is support from the relevant local council and no other overriding planning consideration necessitates refusal.

## TREES, CONSERVATION AND RELATED FUNCTIONS

Function	Relevant Legislation	Relevant Details	Exceptions
<b>Buildings</b>	Planning (Listed Buildings and Conservation Areas) Act 1990 Section: 3 (1-8)	To serve Building Preservation Notices in urgent cases, subject to report to and review by the next meeting of District Development Control Committee.  To obtain and exercise powers of entry to undertake surveys in connection with:  (1) Statutory Plans  (2) Applications for Planning Permission	Yes
<b>Dangerous trees on private land</b>	Local Government (Miscellaneous Provisions) Act 1976 Sections: 23 and 24	Discretionary power to take action to make safe trees on private land, including to:  (1) Obtain and use necessary Powers of Entry to the land;  (2) Serve relevant notices;  (3) Respond to appeals;  (4) Undertake works directly where necessary; and  (5) Recover expenses.	No
<b>Countryside hedgerows</b>	The Hedgerow Regulations 1997 Sections: 5 to 15 incl.	The responsibility to:  (1) Regulate the removal of certain hedgerows;  (2) Issue relevant notices, including to require hedgerow replacement;  (3) Respond to appeals;  (4) Take necessary enforcement or legal action;	No

Function	Relevant Legislation	Relevant Details	Exceptions
		<p>(5) Obtain and use necessary powers of entry to the land including exercise of rights of entry under warrant;</p> <p>(6) Surveying land in connection with any hedgerow removal notice;</p> <p>(7) Ascertaining whether any offences have been committed under Regulation 7; and</p> <p>(8) Determination of whether a notice should be served under Regulation 8.</p>	
<b>High Hedges</b>	Anti-social Behaviour Act 2003 (Part 8) Sections: 68, 69, 70, 74, 75, 77, 79 and 80.	<p>The responsibility to:</p> <p>(1) Deal with complaints in relation to the height of domestic hedgerows;</p> <p>(2) Issue, withdraw or relax the requirements or relevant notices;</p> <p>(3) Serve relevant documents regarding notifications;</p> <p>(4) Notify interested parties;</p> <p>(5) Respond to appeals;</p> <p>(6) Take relevant legal or enforcement action, including undertaking works directly and recovering expenses; and</p> <p>(7) Obtain and use powers of entry necessary in relation to (1), (2), (3), (5) and (6).</p>	No
<b>Protection of trees</b>	Town and County Planning Act 1990 (as amended) Part VIII Sections: 197, 198, 199, 201, 203, 205, 206, 207, 208, 209, 210, 211, 214, 214A, B, C&D, 324, 325	<p>The duty and responsibility to:</p> <p>(1) Take all necessary measures to make Tree Preservation Orders where trees are at risk, and are of significant existing or potential amenity value, or where they are of wider or strategic importance, subject to publication of the details in the Council Bulletin;</p>	No

Function	Relevant Legislation	Relevant Details	Exceptions
		<p>(2) Amend, confirm, decide not to confirm or revoke such orders (i.e. TPOs);</p> <p>(3) Determine applications for works to preserved trees except as set out below:</p> <p>(i) applications recommended for approval where more than two expressions of objection material to the planning merits of the proposal have been received;</p> <p>(ii) applications recommended for approval contrary to an objection from a local council which are material to the planning merits of the proposal;</p> <p>(iii) applications which a Councillor representing a ward within the relevant Area Plans Sub-Committee area requests in writing within four weeks of notification in the Council Bulletin should be referred to the appropriate Sub-Committee provided that the member has notified the Ward Councillor in advance; and</p> <p>(iv) any application which the Director of Governance considers is expedient or appropriate to present to committee for decision (e.g. those raising issues of subsidence, claims for compensation etc).</p> <p>(4) Take any necessary action in respect of claims for compensation;</p> <p>(5) Take action to ensure replacement planting where appropriate, by serving relevant notices, or by undertaking such planting directly and reclaiming the costs, and to publish any decision not to require replacement planting in the Council Bulletin;</p> <p>(6) Respond to appeals;</p> <p>(7) Take legal action in aspect of breaches of Part VIII of the Act where expedient, in conjunction with the Director of Governance, including injunctive action and recovery of costs;</p> <p>(8) Take appropriate action in respect of notification of works to trees in</p>	

Function	Relevant Legislation	Relevant Details	Exceptions
		<p>Conservation Areas, including the issue of the Tree Preservation Orders as necessary; and</p> <p>(9) Authorise all expedient measures to gain entry to land in respect of the execution of any of the above, including to:</p> <p>(i) issue a warrant if admission has been refused or if a refusal is reasonably anticipated or if the case is urgent;</p> <p>(ii) to take samples of trees or soil; and</p> <p>(iii) for the authorised person(s) to take with them such other persons as may be necessary.</p>	

Note: The authorities to undertake the stated functions, as set under the relevant sections shall be taken to be automatically updated to take into account changes, modifications and updating as they occur in the relevant legislation, subject to no new authorities being created. All references are to the legislation as currently amended.

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**Part3**  
**Scheme of Delegation**  
**Appendix 4**  
**Portfolio Responsibilities**

See the Article relating to Decision Making for limits of delegation

**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. 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.

**Part 3**  
**Scheme of Delegation**  
**Appendix 5**  
**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 Sections 9D to 9DA of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 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 rules.
- (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.

### 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 Section 9E of the Local Government Act 2000 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 Subcommittee 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.

**EXECUTIVE FUNCTIONS – DELEGATION BY THE LEADER OF COUNCIL**

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>EXA1</b>	Finance Sub-Committee (Minute 398 - 31.1.80)	<b>DIRECTOR OF RESOURCES</b>	<b>AGENDA AND MINUTES - CHARGES TO SUBSCRIBERS</b>  To approve charges.
<b>EXA2</b>	Housing Committee (Minute 74 – 4.3.92)	<b>DIRECTOR OF COMMUNITIES</b>	<b>AGRICULTURAL DWELLINGS</b>  To accept applications for rehousing and offer suitable alternative accommodation where the Agricultural Dwelling House Advisory Committee advises that the property is required for occupation by an agricultural employee in the interest of efficient agriculture.
<b>EXA3</b>	Environmental Health and Control Committee (Minute 10 – 10.5.78)	<b>HEALTH PROTECTION AGENCY (HPA) (Any Consultant Staff Member)</b>	<b>AIRCRAFT</b>  Proper Officer for the purposes of the Public Health (Aircraft) Regulations 1970.
<b>EXA4</b>	<b>By Leader Decision dated: xxx</b>	<b>DIRECTOR OF COMMUNITIES (or in his absence ASSISTANT DIRECTOR COMMUNITY SERVICES)</b>	<b>ASB Crime &amp; Policing Act 2014</b>  Part 2 Criminal Behaviour Orders (CBO)  Section 29  To act in cooperation with the Chief Officer of Police when carrying out a review of a CBO on a person under 18 using existing ASB process (10.5) as attached.  Part 4, Chapter 3, Section 77 (2) (b) – Closure Notices  To issue closure notices of 24 and 48 hours pursuant to the above section.

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>EXA5</b>	Cabinet (Minute 14(4) – 6.10.14)	<b>DIRECTOR OF COMMUNITIES</b>	<b>APPROPRIATIONS OF LAND</b>  (a) To seek the consent of the Secretary of State for Communities and Local Government, pursuant to Section 19 of the Housing Act 1985, to appropriate land held for housing purposes and identified for Council housebuilding for planning purposes; and  (b) Subject to the receipt of such consent, to advertise the Council's intention to make the appropriation in accordance with the provisions of Section 122(A) of the 1972 Act.
<b>EXB1</b>	Development Committee (Minute 19 – 30.5.2000)	<b>DIRECTOR OF GOVERNANCE DIRECTOR OF NEIGHBOURHOODS</b>	<b>BUILDING ACT 1984 – SECTION 95 AUTHORISATION</b>  To authorise designated postholders within the Governance and Neighbourhoods Directorates to exercise powers under Section 95 of the Building Act 1984 to enter premises in connection with the enforcement of the Building Regulations.
<b>EXB2</b>	Development Committee (Minute 23(1) – 6.2.74)  Council Minute (Minute 24(1) - 9.7.91)	<b>DIRECTOR OF GOVERNANCE (or in her absence ASSISTANT DIRECTOR OF DEVELOPMENT MANAGEMENT)</b>	<b>BUILDING REGULATIONS</b>  To determine applications under the Building Regulations and associated legislation, including the Building Act 1984, consistent with the instructions of the Development Committee and subject to submission to that Committee of any contentious applications.

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>EXB3</b>	Development Committee (Minute 35(1) – 15.7.99)  Development Committee (Minute 35(2) - 15.7.99)	<b>(ASSISTANT DIRECTOR OF DEVELOPMENT MANAGEMENT)</b>  <b>POST PBC/02 &amp; 03 (PRINCIPAL BUILDING CONTROL SURVEYOR)</b>  <b>POSTS PBC/04-9 (SENIOR BUILDING CONTROL SURVEYORS)</b>  <b>DIRECTOR OF GOVERNANCE ASSISTANT DIRECTOR OF DEVELOPMENT MANAGEMENT</b>	<b>BUILDING ACT 1984</b>  To act as Proper Officer for the purposes of Section 78 of the Building Act 1984.  <b>BUILDING ACT 1984</b>  To carry out the following functions under the Building Act 1984:  (a) Section 34 - serve notices requiring work contravening building regulations to be removed or altered to achieve compliance;  (b) Section 77 - approve applications to a Magistrates' Court for an order requiring dangerous buildings or structures to be made safe;  (c) Section 79 - serve notices where it appears that a building is by reason of ruinous or dilapidated condition seriously detrimental to the amenities of the neighbourhood; and  (d) Section 81 - serve notices specifying certain matters and conditions in relation to the demolition of buildings.
<b>EXB4</b>	Personnel Sub-Committee (Minute 138 – 20.3.90) and Development Committee	<b>DIRECTOR OF GOVERNANCE</b>	<b>BUILDING CONTROL – VETTING OF APPLICATIONS</b>  To enter into working arrangements with other local authorities within East Anglia for the checking of one (Minute 66 - 16.1.90) another's building regulation activities on a consultancy basis, this arrangement to be activated where staffing levels fall below

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
			establishment or volume of applications submitted exceeds staffing capacity.
<b>EXB5</b>		<b>DIRECTOR OF COMMUNITIES</b>	<b>BUY-BACK OF FORMER COUNCIL HOUSING</b>  To decide, in consultation with the Housing Portfolio Holder, whether or not the Council would wish to exercise its pre-exemption rights to purchase former Council properties previously sold under the Right to Buy (RTB), in accordance with the Housing Act (Right of First Refusal) (England) Regulations 2005, subject to a sufficient amount of unallocated "One for One Replacement" RTB Receipts or Section 106 financial contributions of affordable housing being available.
<b>EXC1</b>	Transportation Committee (Minute 115 – 26.1.93)	<b>DIRECTOR OF NEIGHBOURHOODS</b>	<b>CAR PARK TARIFFS</b>  To determine individual tariffs in off-street Pay and Display Car Parks within agreed policy.
<b>EXC2</b>	Personnel Sub-Committee (Minute 79 – 17.11.81)	<b>DIRECTOR OF RESOURCES (after consideration of any comments of the relevant portfolio holder)</b>	<b>CAR PARKS (COUNCIL)</b>  To determine applications to use Council office car parks. (See also under "Offices – Use of")
<b>EXC3</b>	Policy & Co-ordinating Committee (Minute 44(3) - 29.11.83)	<b>DIRECTOR OF NEIGHBOURHOODS</b>	<b>CAR PARKS (PUBLIC)</b>  To approve the use of Council car parks by charitable organisations or for other charitable purposes.
<b>EXC4</b>	Policy and Co-ordinating Committee (Minute 66(a) - 4.12.90)	<b>DIRECTOR OF NEIGHBOURHOODS</b>	<b>COMMERCIAL TENANCIES - SERVICE OF NOTICES</b>  To sign notices and answers to originating applications for new tenancies under Part II of the Landlord and Tenant Act 1954.
<b>EXC5</b>	Executive Committee (Minute 449 - 11.3.02)	<b>DIRECTOR OF GOVERNANCE</b>	<b>COMPLAINTS AND COMPLIMENTS PROCEDURE</b>  To make payments up to £250 in respect of upheld complaints at Stages 1, 2 and 3

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>EXC6</b>	Council (Minute 74(3) - 20.12.88)	<b>DIRECTOR OF COMMUNITIES DIRECTOR OF NEIGHBOURHOODS</b>	<b>COMPULSORY COMPETITION - AUTHORITY FOR THE COUNCIL TO SUBMIT BIDS FOR WORK INSIDE THE DISTRICT</b>  To submit bids for work inside the District, to utilise spare capacity/manpower only.
<b>EXC7</b>	Council (Minute 74(3) - 20.12.88)	<b>CHIEF EXECUTIVE</b>	<b>COMPULSORY COMPETITION - AUTHORITY FOR THE COUNCIL TO SUBMIT BIDS FOR WORK OUTSIDE THE DISTRICT</b>  To refer to the Management Board and through them to the Cabinet any proposal involving the authorisation of bids for work outside the district but only in the context of agreed policy for shared services.
<b>EXC8</b>	Policy and Resources Committee (Minute 347 - 14.2.78)	<b>CHIEF EXECUTIVE SERVICE DIRECTORS</b>	<b>CONFERENCES - ATTENDANCE BY OFFICERS</b>  To approve the attendance of officers at annual conferences, taking into account the subject matter of the conference and the budgetary provision made.
<b>EXD1</b>	Council (Minute 52 – 12.12.2000)	<b>DIRECTOR OF RESOURCES AND DIRECTOR OF GOVERNANCE (or nominated Deputy)</b>	<b>DEBTS</b>  To take steps to enforce a debt following the commencement of bankruptcy proceedings, subject to action being reported to the Cabinet.
<b>EXD2</b>	Cabinet minute 25(3) – 23.7.15	<b>DIRECTOR OF COMMUNITIES</b>	<b>DEVELOPMENT AGREEMENTS</b>  To enter into Development Agreements with private developers, and agree terms for the purchase, for affordable rented housing required to be provided by developers in accordance with Section 106 Agreements, where an opportunity is presented that is considered suitable and appropriate subject to the value being no more than the value considered by the Council to require a key decision.
<b>EXE1</b>	Policy & Co-ordinating Committee (Minute 78 - 1.12.81)	<b>DIRECTOR OF RESOURCES</b>	<b>ENERGY MANAGEMENT &amp; CONSERVATION</b>  To implement the Council's policy.

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>EXE2</b>	Personnel Sub-Committee (Minute 67 - 24.11.87)	<b>CHIEF EXECUTIVE SERVICE DIRECTORS</b>	<b>EX GRATIA PAYMENTS</b>  To consider and approve the making of appropriate ex gratia payments to staff at all levels for temporarily undertaking significant additional duties and responsibilities subject, in the case of emergencies where payments are not covered by the approved salary budget, to a report being made to the Cabinet.
<b>EXF1</b>	Leisure Services Committee (Minute 5 - 23.5.91)	<b>DIRECTOR OF NEIGHBOURHOODS</b>	<b>FEES AND CHARGES – LEISURE</b>  To approve the level of fees and charges within the parameters outlined within the Leisure Management Contract.  To introduce individual pricing charges for Cultural and Community Services generally in line with the current level of inflation, or in certain circumstances at a rate which reflects the true cost of providing the service.
<b>EXF2</b>	Public Health Committee (Minute 72 - 21.9.83)	<b>HPA (Any Consultant Staff Member) (see also under "Disease Control")</b>	<b>FOOD HYGIENE - ENTRY TO PREMISES</b>  To act as registered medical practitioner to the Council under the Public Health (Control of Disease) Act 1984 and thereby authorised to enter any premises, vessel or aircraft for the purpose of regulations made under that section.
<b>EXG1</b>	Portfolio Holder Decision HSG-029 – 2009/10	<b>DIRECTOR OF COMMUNITIES</b>	<b>GARAGES</b>  To sell isolated garages in accordance with the Council's Policy.
<b>EXH1</b>	Housing Services Committee (Minute 155 - 12.2.80)	<b>DIRECTOR OF COMMUNITIES</b>	<b>HARDSTANDINGS - COUNCIL HOUSES</b>  (a) To approve, subject to satisfactory works to boundary walls, hedges and fences and other necessary works and also Essex County Council being satisfied as to the standard of footpath crossings, applications by tenants to construct car hardstandings in front gardens; and  (b) To apply the above policy to hardstandings provided by tenants without permission.

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>EXH2</b>	Council Housebuilding Cabinet Committee (Minute 4 (5) – 10.7.13)	<b>DIRECTOR OF COMMUNITIES</b>	<p><b>HOMES AND COMMUNITIES AGENCY – SHORT FORM AGREEMENTS</b></p> <p>That the Director of Communities be authorised to enter into Short Form Agreements with the Homes and Communities Agency for all (Council housing) developments, to enable affordable rents to be charged for the properties built under the Housebuilding Programme, and that the “Provider Representative” named in the Agreements be a senior figure at East Thames Group.</p>
<b>EXH3</b>	Council Housebuilding Cabinet Committee (Minute 5 (3) – 10.7.13)	<b>DIRECTOR OF COMMUNITIES</b>	<p><b>HOUSEBUILDING PROGRAMME – ALLOCATION OF FUNDING TO SCHEMES</b></p> <p>That, once the Cabinet Committee has authorised the use and provisional level of subsidy required for individual developments and/or development packages, the Director of Communities be authorised to allocate funding from the sources listed in Minute 5 (1) of the Housebuilding Cabinet Committee held on 10th July 2013 to individual developments and/or development packages – utilising the most appropriate source of funding for the development(s), having regard to the time limits within which they must be utilised - up to and in excess of the provisional level approved by the Cabinet Committee, once tenders to undertake the works have been received from contractors, subject to:</p> <p>(a) The amount allocated being no more than 15% of the level provisionally approved by the Cabinet Committee;</p> <p>(b) Sufficient funds being available at the time of allocation; and</p> <p>(c) The Cabinet Committee receiving a report to its next meeting on the amount of subsidy allocated, and its source of funding.</p> <p>Note - Minute 5 (1) of the Housebuilding Cabinet Committee held on 10th July 2013 lists the following sources of funding:</p> <ul style="list-style-type: none"> <li>• Loans from PWLB</li> <li>• Capital receipts from additional RTB sales covered by the Agreement with CLG</li> <li>• Current and future financial contributions for affordable housing from Section 106 Agreements</li> <li>• Capital receipts from the sale of HRA land or building, where the Cabinet has</li> </ul>

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
			<p>specifically agreed that they should be used to help fund the Council Housebuilding Programme</p> <ul style="list-style-type: none"> <li>• Grant from the HCA</li> <li>• Any other external funding sources.</li> </ul>
<b>EXH4</b>	Housing Committee (Minute 125-27.1.97)	<b>DIRECTOR OF COMMUNITIES</b>  <b>HOUSING OPTIONS MANAGER</b>	<b>HOUSING ACCOMMODATION – ALLOCATION</b>  To allocate accommodation in accordance with the Housing Allocations Scheme.
<b>EXH5</b>	Housing Committee (Minute 49 – 30.10.91)	<b>DIRECTOR OF COMMUNITIES</b>	<b>HOUSING ACCOMMODATION - DESIGNATION FOR ELDERLY</b>  To cancel designations.
<b>EXH6</b>	Housing Committee (Minute 41(20) & (21) – 17.9.96)	<b>DIRECTOR OF COMMUNITIES</b>	<b>HOUSING ACCOMMODATION – TENANCIES FOR 'LIVE IN' CARERS</b>  To grant requests to provide or extend joint tenancies to 'live in' carers where such requests are considered to be justified.
<b>EXH7</b>	Housing Committee (Minute 93(b) - 11.3.87)	<b>DIRECTOR OF COMMUNITIES</b>	<b>HOUSING DEFECTS - PLANNING APPLICATIONS FOR REINSTATEMENT WORKS</b>  To submit applications for deemed planning consent in connection with the reinstatement of all Council owned designated defective dwellings.
<b>EXH8</b>	Portfolio Holder Decision (1.3.04)	<b>DIRECTOR OF COMMUNITIES</b>	<b>HOUSING LAND – USE FOR COMMUNITY EVENTS</b>  To grant licences for community events to be held on housing land in the future, subject to consultation with Ward Members and local residents (where residential properties are located nearby) and all health and safety insurance requirements being met by the organisation staging the event.
<b>EXH9</b>	Council (Minute 23(7)(2) - 29.6.82)	<b>DIRECTOR OF COMMUNITIES</b>	<b>HOUSING LAND - SURPLUS PLOTS</b>

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
	Housing Committee (Minute 116(4) - 26.1.98)	<b>(in consultation with the appropriate Portfolio Holder)</b>	To negotiate, agree terms and dispose of surplus plots of garden land (in consultation with the relevant Portfolio Holder and appropriate Ward Members) as identified by the Council.
<b>EXH10</b>	Housing Committee (Minute 145 - 25.3.97)	<b>DIRECTOR OF COMMUNITIES</b>	<b>HOUSING LAND - WAYLEAVES</b>  To grant wayleaves where there is no detrimental effect on the Council, subject to consultation with Ward Members.
<b>EXH11</b>	Cabinet (Minute 155 – 6.2.06)	<b>DIRECTOR OF COMMUNITIES</b>	<b>HOUSING OPTIONS CONSORTIUM</b>  To exercise the Cabinet's functions in respect of the Housing Options Consortium, being a partnership of local authorities of which the Council is a member.
<b>EXH12</b>	Housing Committee (Minute 74 - 4.3.92)	<b>DIRECTOR OF COMMUNITIES</b>	<b>HOUSING REGISTER RULES – WAIVING</b>  To waive Housing Register Rules where the Director of Communities considers there are good grounds for so doing.
<b>EXH13</b>	Housing Services Director Committee (Minute 6(a)(iii) - 29.10.73)	<b>DIRECTOR OF COMMUNITIES</b>	<b>(HOUSING) MUTUAL EXCHANGES</b>  To approve applications under the Mutual Exchange Scheme.
<b>EXI1</b>	Public Health Committee (Minute 72 - 21.9.83)	<b>HPA (Any Consultant member of staff)</b>	<b>ILLNESS - PERSONS IN NEED OF CARE AND ATTENTION</b>  To act as proper officer to the Council for the purposes of Section 47 of the National Assistance Act 1948 (removal to suitable premises of persons in need of care and attention or those suffering from grave chronic illness).
<b>EXI2</b>	Public Health Committee (Minute 72 - 21.9.83) (Minute 92 - 17.3.92)	<b>HPA (Any Consultant member of staff)</b>	<b>INFECTIOUS AND COMMUNICABLE DISEASES</b>  To act as proper officer to the Council for the purposes of the Public Health (Infectious Diseases) Regulations 1968, the Public Health (Control of Diseases) Act 1984 and Section 47 of the National Assistance Act 1948.

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>EXL1</b>	<p>Council (Minute 23 – 15.5.08)</p> <p>Cabinet (Minute 42 – 29.7.13)</p> <p><b>NB. Delegated authority to deal with Section 23-25 of the Land Drainage Act 1991 (as amended) will come into operation once final confirmation from Essex County Council has confirmed the delegation (27.8.13)</b></p>	<p><b>DIRECTOR OF NEIGHBOURHOODS ASSISTANT DIRECTOR (TECHNICAL SERVICES) DRAINAGE MANAGER (AND RELEVANT STAFF DULY AUTHORISED TO ACT ON HIS BEHALF)</b></p> <p><b>RELEVANT PORTFOLIO HOLDER</b></p>	<p><b>LAND DRAINAGE AND FLOOD DEFENCE</b></p> <p>To act under the statutory provisions in the Epping Forest District Council – Land Drainage Byelaws 2005.</p> <p>To act under the statutory provisions listed below:</p> <p><b>Land Drainage Act 1991</b></p> <p>Section 14 General drainage powers to maintain, construct and improve drainage works etc</p> <p>Section 15 Disposal of spoil from works to watercourse</p> <p>Section 23, 24 and 25 Consenting to and enforcement of ordinary watercourses as delegated by Essex County Council as amended by the Flood &amp; Water Management Act 2010</p> <p>Sections 26 and 27 Powers to require works for maintaining flow of watercourses etc</p> <p>Section 64 Powers of entry for internal drainage boards and local authorities</p> <p><b>Public Health Act 1936</b></p> <p>Section 260 Power to deal with ponds, ditches etc</p> <p>Section 262 Power to require culverting of watercourses and ditches where building operations in prospect</p> <p>Section 263 Approval of plans to culvert or cover any stream or watercourse</p> <p>Section 264 Issue of notice requiring the repair or cleansing of culverts</p> <p>To approve updates to the list of legislation set out above.</p>

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>EXL2</b>	<b>Leader decision May 2016</b>	<b>DIRECTOR OF NEIGHBOURHOODS</b>  <b>And</b>  <b>CHIEF ESTATES OFFICER</b>  <b>(in amounts shown in column 4)</b>  <b>Ditto</b>	<b>LANDLORD AND TENANT - ESTATES MANAGEMENT</b>  (a) To serve notices under Part II of the Landlord and Tenant Act 1954 as amended by Part I of the Law of Property Act 1969 in connection with negotiation of new rentals for Council properties.  (b) To take immediate corrective management action (except the institution of legal proceedings) for breaches of covenant in leases of shops, industrial estates and industrial land  (c) For all property transactions including acquisitions, disposals, new lettings, lease renewals, lease surrenders, rent reviews, sub-lettings / assignments, all licences (including change of use, alterations), deeds of variations, wayleaves and rights of way.  Officers delegated to approve the above transactions for the following amounts and by the Officer approval levels shown:  Revenue transactions:  Chief Estates Officer – upto £25,000 per year Director of Neighbourhoods - £25,001 to £100,000 per year  Capital Transactions:  Chief Estates Officer – upto £50,000 per transaction Director of Neighbourhoods - £50,001 to £500,000 per transaction  (d) To approve licences to assign and licences for change in use in consultation with the relevant Portfolio Holder.
<b>EXN1</b>	Policy and Co-ordinating Committee Minute 44(3) – 29.11.83	<b>DIRECTOR OF NEIGHBOURHOODS</b>	<b>NAMING OF STREETS</b>  To approve the names of new streets in accordance with the Town and Police Clauses Act 1847, where, following consultation, one name is agreed by all parties.

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>EXN2</b>	Council (Minute 138 – 28.4.09)  Portfolio Holder Decision L/001/2005/6 dated 20.5.05	<b>DIRECTOR OF NEIGHBOURHOODS (OR NOMINATED OFFICER)</b>  <b>DIRECTOR OF NEIGHBOURHOODS</b>	<b>NORTH WEALD AIRFIELD - NON COMMERCIAL LETTINGS</b>  (a) To negotiate and produce agreements and licences for all regular bookings and single events (of a non public character) which comply with the standard licence agreement and fees operated by the Council.  (b) To negotiate in liaison with the Airfield Manager, any arrangements regarding use of the Airfield (except those which fall under item (1) above), and, where appropriate, to draft and execute appropriate agreements or licences for all Airfield uses including any negotiated under (a) above, which may be referred to the Director of Neighbourhoods.  (c) That subject to compliance with the Council's policy the Director of Neighbourhoods be granted delegated authority to sanction the Concessionary Hire of Leisure Facilities by, or on behalf of, registered charities, for Fundraising Events.
<b>EXN3</b>	Public Health Committee (Minute 72 – 21.9.83)	<b>HPA (Any Consultant member of staff) (See also under "Disease Control")</b>	<b>NOTIFIABLE DISEASES</b>  To act as proper officer for the purposes of the Public Health (Control of Disease) Act 1984.
<b>EXN4</b>	Cabinet (Minute 142 – 14.3.05)	<b>DIRECTOR OF NEIGHBOURHOODS (or authorised Environmental Health Officer)</b>	<b>NUISANCES</b>  Authority to make closure orders under Section 40 of the Anti Social Behaviour Act 2003 and to give notices of cancellation of closure orders under Section 41 of that Act
<b>EXO1</b>	Personnel Sub-Committee (Minute 79 – 17.11.81)	<b>DIRECTOR OF RESOURCES</b>	<b>OFFICES - USE OF</b>  To determine applications to use Council offices (See also under "Car Parks (Council)").
<b>EXO2</b>	Cabinet Minute 151(10) – 18.4.11	<b>DIRECTOR OF COMMUNITIES</b>	<b>OFF STREET CAR PARKING SCHEMES</b>  "To submit planning applications for future off-street parking schemes at the

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
			appropriate time after the resident consultation exercise."
<b>EXO3</b>	Policy and Resources Committee (Minute 3 – 11.10.73)	<b>DIRECTOR OF RESOURCES</b>	<b>ORDNANCE SURVEY</b>  To act as proper officer for the purposes of Section 191 of the Local Government Act 1972 (Marking out and checking of reputed boundaries).
<b>EXP1</b>	Leader Decision dated April 2016	<b>DIRECTOR OF GOVERNANCE or BUILDING CONTROL MANAGER</b> <b>Or in his absence</b> <b>PRINCIPAL BUILDING CONTROL SURVEYOR</b>	<b>PARTY WALL ACT 1996</b>  <b>SECTION 10 (8)</b>  To act as Appointed Officer pursuant to Section 10(8) of the Party Wall Act 1996 which allows the appointment of a third surveyor to resolve party wall disputes.
<b>EXP2</b>	Policy and Co-ordinating Committee (Minute 99 – 21.11.89)	<b>DIRECTOR OF GOVERNANCE</b>	<b>PHYSICAL ASSAULTS ON STAFF</b>  In the event of the Crown Prosecution Service not proceeding after physical assault on a Council employee, to give instructions to prosecute where the Director of Governance consider that the Attorney General's guidelines for prosecutions in a private prosecution for assault are satisfied.
<b>EXP3</b>	Housing Committee (Minute 74 – 4.3.92)	<b>DIRECTOR OF GOVERNANCE</b>  <b>DIRECTOR OF RESOURCES</b>	<b>POSSESSION ORDERS - MORTGAGE ARREARS</b>  To obtain and execute in the case of mortgage arrears where an Order for possession is granted by the Courts, a warrant for the possession of a property.  To offer for sale on the open market any property subsequently repossessed.
<b>EXP4</b>	Housing Committee (Minute 75 – 14.11.95)	<b>DIRECTOR OF COMMUNITIES</b>	<b>POSSESSION ORDERS - RENT ARREARS/GAS SAFETY INSPECTIONS AND OTHER RELATED ACTIONS</b>  (a) To serve notices of seeking possession for any of the grounds contained in Schedule 2 of the Housing Act 1985;

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
	<p>Housing Committee (Minute 46 – 12.9.2000)</p> <p>Housing Management Sub Committee (Minute 161 – 15.2.77)</p> <p>Portfolio Holder Decision (24.3.2004)</p>	<p><b>DIRECTOR OF COMMUNITIES, ASSISTANT DIRECTOR (HOUSING PROPERTY AND DEVELOPMENT), ASSISTANT DIRECTOR (HOUSING OPERATIONS) AREA HOUSING MANAGER (NORTH), AREA HOUSING MANAGER (SOUTH)</b></p> <p><b>HOUSING OPTIONS MANAGER</b></p> <p><b>DIRECTOR OF COMMUNITIES HOUSING ASSETS MANAGER (HMT/01) (or</b></p>	<p>(b) Where considered appropriate, to serve notices to quit in cases where the tenant is not a secure tenant as defined in the Housing Act 1985;</p> <p>(c) To institute proceedings in the County Court for the possession of properties following service of a notice seeking possession or a notice to quit;</p> <p>(d) To institute proceedings in the County Court for the recovery of rent, court costs and service charges; and</p> <p>(e) To obtain and execute a warrant for eviction where possession has been awarded by the Court. In respect of secure and non-secure tenancies of Housing Revenue Account properties:</p> <p>(f) to approve and sign Notices and Seeking Possession and Notices to Quit;</p> <p>(g) to initiate proceedings in the County Court for possession and the recovery of rent, mesne profits, service charges and court costs, in accordance with relevant legislation; and</p> <p>(h) to seek and execute warrants of execution for possession; and</p> <p>(i) to undertake the actions set out in (a), (b) and (c) above, in respect of non-secure tenancies and licences at the Council's Homeless Persons' Hostel (Norway House) including the eviction of any homeless person who defaults in the payment of accommodation charges for four successive weeks or more.</p> <p>(j) Approve and sign Notices of Seeking Possession on the grounds of a breach of tenancy conditions for not allowing the Council access to undertake required repairs and maintenance;</p>

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
		<b>any officer authorised to act)</b>	(k) Initiate proceedings in the County Court for possession or to provide access for the purpose of undertaking the statutory annual Gas Safety Inspection in accordance with the relevant legislation; and  (l) Seek and execute warrants of execution for possession authorised by the Court.
<b>EXP5</b>	Standing Order A41(4)	<b>DIRECTOR OF GOVERNANCE</b>	<b>PRESS RELEASES</b>  To issue press releases in advance of publication of relevant committee minutes, if appropriate.
<b>EXP6</b>	Cabinet (Minute 109 – 18.12.06)	<b>DIRECTOR OF COMMUNITIES ASSISTANT DIRECTOR OF COMMUNITIES (PRIVATE SECTOR HOUSING COMMUNITIES SUPPORT)</b>	<b>PRIVATE SECTOR HOUSING – ASSISTANCE (including Decent Homes Repayable Assistance, Small Works Repayable Assistance, Thermal Comfort Grants, Conversion Grants, Empty Homes Repayable Assistance and Disabled Facilities Grants)</b>  To exercise the powers and duties under relevant legislation. (See also ‘Private Sector Housing – General’)
<b>EXP7</b>	Cabinet (Minute 184 – 10.4.06)	<b>DIRECTOR OF COMMUNITIES ASSISTANT DIRECTOR OF COMMUNITIES (PRIVATE SECTOR HOUSING AND COMMUNITIES SUPPORT)</b>  <b>RELEVANT PORTFOLIO HOLDER</b>	<b>PRIVATE SECTOR HOUSING – GENERAL</b>  To exercise the powers and duties set out in Annex A including powers of entry by warrant where this is not specified in the legislation listed.  To authorise updates to the list of legislation set out in Annex A (see also ‘Private Sector Housing – Assistance’)

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>EXR1</b>	Finance Sub-Committee (Minute 57 – 31.5.79)	<b>DIRECTOR OF RESOURCES</b>	<b>RATING - DISABLED PERSONS</b>  To administer the provisions of the Rating (Disabled Persons) Act 1978.
<b>EXR2</b>	Leisure Services Committee (Minute 5 – 23.5.91)	<b>DIRECTOR OF NEIGHBOURHOODS</b>	<b>RECREATION CHARGES – LEISURE ACTIVITIES AND EVENTS</b>  To make adjustments to the level of fees and charges within the maximum approved by the Cabinet.
<b>EXR3</b>	Housing Portfolio Holder Decision  HSG-027-2015/16  Dated 11 February 2016	<b>DIRECTOR OF COMMUNITIES</b>	<b>RENEWAL OF LEASES WITH NACRO COMMUNITY ENTERPRISES</b>  To renew leases (and any subsequent leases) on expiry for a further 5 years on the 12 properties currently leased to NACRO Community Enterprises provided there is a continuing need to accommodate vulnerable younger homeless applicants.
<b>EXR4</b>	Housing Management Sub-Committee (Minute 152(c)(2) – 11.3.80)	<b>DIRECTOR OF COMMUNITIES</b>	<b>RENT ARREARS - DECEASED TENANTS</b>  To write off rent arrears in respect of deceased tenants, where there is no means of recovering the debt.
<b>EXR5</b>	Cabinet Minute 46 – 12.9.11	<b>DIRECTOR OF COMMUNITIES</b>	<b>RESTRICTIVE COVENANTS – HOUSING IN MULTIPLE OCCUPATION</b>  To agree requests to vary restrictive covenants on former Council houses, in order to grant permission for their use as privately-rented shared accommodation, provided all of the conditions set out in Cabinet Minute 46 – 12.9.11 have been met.
<b>EXS1</b>	Cabinet (Minute 184 – 10.4.06)  <b>Leader decision 2/11 (May 2011)</b>	<b>DIRECTOR OF NEIGHBOURHOODS (or in his absence ASSISTANT DIRECTORS (ENVIRONMENT AND NEIGHBOURHOOD SERVICES AND TECHNICAL) (or suitably qualified</b>	<b>“SAFER, CLEANER, GREENER” LEGISLATION – AUTHORISATION OF OFFICERS</b>  To exercise those functions relating to the management and provision of the Environmental Health Service set out in the list of environmental health legislation in Annex B including, where necessary, powers of entry by warrant.

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
	Portfolio Holder Decision ENV/004/2009-10  Council (Minute – 20.4.10)	<b>officers authorised by the above-named)</b>  <b>Appropriate Portfolio Holder</b>  <b>DIRECTOR OF NEIGHBOURHOODS</b>	To delegate appropriate powers to the Director of Neighbourhoods relating to the management and provision of the Environmental Health Service set out in the attached list of environmental health legislation as set out in Annex B.  To approve updates to the list of environmental legislation set out in Annex B.
<b>EXS2</b>	Council (Minute 24(2) – 30.6.81)	<b>DIRECTOR OF COMMUNITIES (after considering the views of the Portfolio Holder)</b>	<b>SALE OF COUNCIL HOUSES - DISCOUNTS</b>  To determine, under Part V of the Housing Act 1985, applications for discounting of entitlement periods where a potential purchaser lives with their parents.
<b>EXS3</b>	Council (Minute 40(4) – 15.7.86)  Housing Committee Minute 117(5) & (6)	<b>DIRECTOR OF COMMUNITIES</b>	<b>SALE OF COUNCIL HOUSES - RESTRICTIVE COVENANTS, MINOR EXTENSIONS AND ALTERATIONS</b>  To deal with applications for minor extensions or alterations in sold Council houses in accordance with the terms of the house sales agreement.  To agree, in consultation with the Portfolio Holder, future requests for release of restrictive covenants to allow development within the curtilage of former Council properties, prior to planning permission being obtained.  To negotiate terms for the release of covenants agreed by the Director of Communities, subject to the outcome being reported to the Portfolio Holder for approval.
<b>EXS4</b>	Council (Minute 11(c) – 2.6.77)	<b>DIRECTOR OF NEIGHBOURHOODS</b>	<b>SALE OF COUNCIL HOUSES - VALUATIONS</b>  To carry out all valuations in respect of sale of Council houses.
<b>EXS5</b>	Policy and Resources Committee	<b>DIRECTOR OF GOVERNANCE</b>	<b>SECURITIES</b>

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
	(Minute 3 – 11.10.73)		To act as proper officer for the purposes of Section 146 (1)(a)(b) of the Local Government Act 1972 (declarations and certificates regarding securities).
<b>EXS6</b>	Public Health Committee (Minute 73 – 21.9.83)	<b>HPA (Any Consultant member of staff)</b>	<b>SHIPS</b>  To act as proper officer to the Council for the purposes of the Public Health (Ships) Regulations 1970.
<b>EXS7</b>	Housing Committee (Minute 121 – 8.11.77)	<b>DIRECTOR OF GOVERNANCE (in consultation with Director of Communities)</b>	<b>SQUATTERS - EVICTION</b> To take such urgent action as is necessary to secure the vacation of any Council properties, which are occupied by squatters.
<b>EXS8</b>	Council (Minute 90(5) – 23.2.82)	<b>DIRECTOR OF RESOURCES</b>	<b>STAFF - APPOINTMENTS TO POSTS REQUIRING LITTLE OR LIMITED TRAINING</b>  To determine whether, in respect of the filling of posts requiring little or limited training, appointments should be made from outside the Council's current workforce.
<b>EXS9</b>	Personnel Sub-Committee (Minute 3 – 31.5.83)	<b>DIRECTOR OF RESOURCES (or in his absence the Deputy Chief Executive)</b>	<b>STAFF - TRAVELLING ALLOWANCES</b>  To consider and adjudicate on any request to make an exception to policy for reimbursement of travelling expenses in pursuance of an officer's duties, being limited to second class rail fare.
<b>EXS10</b>	Personnel Sub-Committee (Minute 77 – 28.5.74)	<b>CHIEF EXECUTIVE SERVICE DIRECTORS</b>	<b>STUDY LEAVE</b>  To grant, at their discretion, up to one week's leave of absence with full pay for the purposes of final revision in the period preceding an examination.

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
<b>EXS11</b>	Policy & Co-ordinating Committee (Minute 23 – 5.10.93)	<b>DIRECTOR OF GOVERNANCE</b>	<b>SUBSCRIPTIONS - OUTSIDE ORGANISATIONS</b>  To pay subscriptions in respect of organisations on which the Council is represented at member level.
<b>EXS12</b>	Public Health Committee (Minute 46 – 19.9.84)	<b>DIRECTOR OF GOVERNANCE</b>	<b>SUNDAY TRADING - CAR BOOT SALES</b> To institute proceedings in respect of such sales where complaints have been received and satisfactory evidence is available.
<b>EXS13</b>	Portfolio Holder decision reference H/026/2002-3	<b>DIRECTOR OF COMMUNITIES</b>	<b>SUPPORTING PEOPLE – SIGNING OF CONTRACTS</b>  To sign the Supporting People “Block Subsidy” and “Block Grants” contracts with Essex County Council for 2003/03, and subsequent years, in order to receive funding from the Essex Supporting People Commissioning Body for the provision of support services.
<b>EXT1</b>	Council Minute 127 – 23.4.13	<b>CHIEF FINANCIAL OFFICER (DIRECTOR OF RESOURCES)</b>	<b>TAX BASE</b>  To declare the Council’s Domestic and NNDR Tax Bases in accordance with the Local Government Finance Act 1992 and the Local Authorities (Calculation of Tax Base)(England) Regulations 2012 and any subsequent legislation.
<b>EXT2</b>	Personnel Sub-Committee (Minute 37 – 14.2.74)	<b>CHIEF EXECUTIVE SERVICE DIRECTORS</b>	<b>TEMPORARY STAFF</b>  To engage temporary staff and/or part time staff and subject to the overall estimated salaries bill for the service concerned not being exceeded in any one year.
<b>EXT3</b>	Housing Services Committee (Minute 6(a)(iii) – 29.10.73)	<b>DIRECTOR OF COMMUNITIES</b>	<b>TENANCIES - COUNCIL HOUSES</b>  To allocate tenancies in accordance with the Housing Allocation Scheme.
<b>EXT4</b>	Portfolio Holder Decision (23.8.04)	<b>DIRECTOR OF COMMUNITIES OR NOMINATED OFFICER</b>	<b>TENANCIES – DEMOTED TENANCY ORDERS</b>  Inter alia: (1) To serve demoted tenancy notices in appropriate cases;

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
			(2) To apply to the County Court for Tenancy Demotion Orders and subsequent Possession Orders in appropriate cases.
<b>EXT5</b>	Housing Management Sub-Committee (Minute 33(c)(2) – 15.5.74)	<b>DIRECTOR OF COMMUNITIES</b>	<b>TENANCIES - SERVICE</b>  To accept any application for priority Council housing in cases where a tenant of service accommodation reaches retirement age after having occupied the accommodation for a minimum of 15 years.
<b>EXU1</b>	Housing Portfolio Holder Decision HSG/-33/2013-14	<b>DIRECTOR OF COMMUNITIES</b>	<b>USE OF OPEN SPACES ON LAND HELD UNDER HOUSING ACT POWERS</b>  To agree or refuse (in consultation with Ward Members), events managed by Town and Parish Councils or other organisations on any land held under Housing Act powers; provided the Council enters into an Agreement with the organisation meeting the Council's required conditions.
<b>EXW1</b>	Housing Services Committee (Minute 6(d)(1) – 29.10.73)	<b>DIRECTOR OF COMMUNITIES</b>	<b>WARRANTS OF DISTRAINT</b>  To issue warrants of distraint in housing cases.
<b>EXW2</b>	Development Committee (Minute 60 – 6.1.93) Public Health Committee (Minute 52 – 17.11.92) Housing Committee (Minute 56 – 24.11.92)  Development Committee (Minute 60 – 6.1.92)	<b>DIRECTOR OF NEIGHBOURHOODS (in consultation with the Director of Governance)</b> <b>ASSISTANT DIRECTOR – NEIGHBOURHOOD SERVICES</b> <b>DIRECTOR OF COMMUNITIES (Housing Act Powers)</b>  <b>DIRECTOR OF GOVERNANCE</b>	<b>WARRANTS FOR ENTRY</b>  To make applications to the Magistrates Court for entry pursuant to the Environmental Protection Act 1990, Public Health Acts 1936-61, Control of Pollution Act 1974, Clean Air Acts 1956-68, Food Safety Act 1990, Building Act 1984, Housing Acts 1957-85 and Local Government and Housing Act 1989.  To make applications to the Magistrates' Court for warrants of entry in accordance with the Building Act 1984 and the Town and Country Planning 1990.
<b>EXW3</b>	Public Health Committee (Minute 144(a) – 9.3.77)	<b>DIRECTOR OF NEIGHBOURHOODS</b>	<b>WASTE DISPOSAL ON LAND</b>

	<b>Authorising Committee and Minute Ref or Other Authority</b>	<b>Officer(s) Authorised</b>	<b>Subject and Function(s) Delegated</b>
		<b>(after consideration of any views of the Portfolio Holder and local ward member(s))</b>	To submit representations to Essex County Council on any proposed licence.
<b>EXW4</b>	Assets and Economic Development Portfolio Holder Decision AED-001-2015/16	<b>DIRECTOR OF NEIGHBOURHOODS</b>	<b>WAYLEAVES – COUNCIL LAND</b>  To determine and grant wayleaves on Council land subject to there being no detrimental effect on the Council.  NB: a separate delegation exists for Housing land

## **PRIVATE SECTOR HOUSING - SCHEDULE OF DELEGATION**

<b>Building Act 1984</b> Sections 59-62, 63, 64, 66, 67, 68, 70, 71, 76, 79, 84-85, 91-115.	Director of Communities
<b>Caravan Sites and Control of Development Act 1960</b> Sections 1, 2, 3, 4-5, 8-11, 12, 23, 24, 25, 26.	Director of Communities
<b>Caravan Sites Act 1968</b> Sections 3, 14.	Director of Communities
<b>Civil Evidence Act 1995</b> Section 9.	Director of Communities
<b>Clean Neighbourhoods and Environment Act 2005</b> Sections 102, 103.	Director of Communities
<b>Criminal Procedure and Investigations Act 1996</b> Section 26.	Director of Communities
<b>Environmental Protection Act 1990</b> Sections 79-82, Schedule 3.	Director of Neighbourhoods
<b>Home Energy Conservation Act 1995</b> Sections 2, 5.	Director of Neighbourhoods
<b>Home Safety Act 1961</b> Section 1.	Director of Communities
<b>Housing Act 1985</b> Sections 17, 54, 265-275, 289, 290-297, 300-306, 308, 309, 319, 320, 324-340, 435-443, 523, 535-537, 540-542, 544-546, 584A, 584B, 596, 597, 609, 611, 617.	Director of Communities
<b>Housing Grants, Construction and Regeneration Act 1996</b> Sections 1-3, 19, 21-24, 29-31, 34-44, 51, 52, 55-57, 95.	Director of Communities
<b>Housing Act 2004</b> Sections 4, 5, 7, 8, 10, 11, 12, 16, 17, 20, 21, 25-29, 31-32, 40-43, 46, 47, 49, 50, 55-62, 64-67, 69, 70, 73, 74, 102-107, 110-113, 115, 116, 121, 122, 127, 129-131, 133, 136-140, 144, 210, 225, 232, 232-236, 239, 243, 255, 256.	Director of Communities
<b>Landlord and Tenant Act 1985</b> Sections 1, 2, 4, 8, 11, 12, 20, 34.	Director of Communities
<b>Local Government Act 1974</b> Section 36.	Director of Communities
<b>Local Government and Housing Act 1989</b> Sections 89-93, 95, 97, 169.	Director of Communities
<b>Local Government (Miscellaneous Provision) Act 1976</b> Section 13, 15, 16, 33, 35.	Director of Communities
<b>Local Government (Miscellaneous Provision) Act 1982</b> Sections 27, 29, 30, 31, 32, 33, 37, 41.	Director of Communities

<b>Planning and Compensation Act 1991</b> Sections 196A-C	Director of Communities
<b>Prevention of Damage by Pests Act 1949</b> Sections 4-7, 10, 22, 26.	Director of Communities
<b>Protection from Eviction Act 1977</b> Sections 6, 7.	Director of Communities
<b>Protection from Harassment Act 1997</b> Sections 1, 6, 7.	Director of Communities
<b>Public Health Act 1936</b> Sections 1, 45, 48-50, 83, 84-87, 264, 265, 268-270, 275, 276, 278, 284, 287, 290, 291, 293, 298.	Director of Communities
<b>Public Health Act 1961</b> Section 17, 22, 34, 36, 37, 73, 74.	Director of Communities
<b>Town and Country Planning Act 1990 (as amended)</b> Sections 215 – 219	Director of Communities

**LIST OF SAFER, CLEANER, GREENER LEGISLATION**

<b>Animal Boarding Establishments Act 1963</b> Sections 1, 2 and 4	Director of Neighbourhoods
<b>Animal Health Act 1981</b> Sections 15(6), 17, 18, 50, 52, 56, 63, 64, 64A, 81 and 91(2)	Director of Neighbourhoods
<b>Anti-Social Behaviour Act 2003</b>	Director of Communities
<b>Breeding and Sale of Dogs (Welfare) Act 1999</b> Sections 1-11	Director of Neighbourhoods
<b>Betting, Gaming and Lotteries Act 1963</b> Sections 4, 6, 9, 16, 16A and 23, and Schedule 1 Paragraphs 5, 12 and 29 of Schedule 2 Paragraphs 3, 6, 7, 9, 10, 12(4) and 13 of Schedule 3 Paragraphs 8 of Schedule 5	Director of Neighbourhoods
<b>Breeding of Dogs Act 1973</b> Sections 1, 1(2A) and 2	Director of Neighbourhoods
<b>Breeding of Dogs Act 1991</b> Section 1	Director of Neighbourhoods
<b>Building Act 1984</b> 56, 59 to 62, 64 to 68, 70 to 72 – 115	Director of Governance Sections 54,
<b>EFDC bye laws for the control of dogs</b> All	Director of Neighbourhoods
<b>Caravan Sites Act 1968</b> Section 14	Director of Communities
<b>Caravans Sites and Control of Development Act 1960</b> Sections 3, 5 and 8 to 11 Sections 24(1), (2) and (3) Sections 25 and 26	Director of Communities
<b>Cattle Identification Regulations 1998</b> Regulation 5	Director of Neighbourhoods
<b>Celluloid and Cinematograph Film Act 1922</b> Sections 1 and 4	Director of Neighbourhoods
<b>Charities Act 1992</b> Sections 68 and 70 Section 78	Director of Neighbourhoods
<b>Chronically Sick and Disabled Persons Act 1970</b> Sections 4 and 5	Director of Neighbourhoods
<b>Cinemas Act 1985</b>	Director of Neighbourhoods

Sections 1, 1(3)(6D) to 1(3)(6F), 2, 3(2), 3A, 9, 12, 13, 13(3), 14, 18

<b>Civil Evidence Act 1995</b> Section 9	Director of Neighbourhoods
<b>Clean Air Act 1993</b> Sections 4, 6 to 12, 15, 16, 18, 19, 22(3), 24 to 26, 30, 31, 34, 35, 35(2), 35(4) 36, 38, 39, 45 to 48, 51, 55, 56, 57(5), 58, 60	Director of Neighbourhoods
<b>Clean Neighbourhoods and Environment Act 2005</b> All	Director of Neighbourhoods
<b>Contaminated Land (England) Regulations 2000</b> All	Director of Neighbourhoods
<b>Control of Dogs Order 1992</b> Sections 4 and 5	Director of Neighbourhoods
<b>Control of Pollution Act 1974</b> Section 22 Section 23 Sections 57, 60, 61, 62, 68, 91 and 93	Director of Neighbourhoods
<b>Control of Pollution (Amendment) Act 1989</b> All	Director of Neighbourhoods
<b>Cremation Act 1902</b> Sections 6, 7 and 9	Director of Neighbourhoods
<b>Crime and Disorder Act 1998</b> Section 1 Section 12 Section 17 and 37	Director of Communities
<b>Criminal Justice and Police Act 2001</b> Sections 13, 19, 20, 22 and 25 Sections 50, 52 to 55 and 60 to 62	Director of Communities Director of Neighbourhoods
<b>Criminal Justice and Public Order Act 1994</b> Sections 77, 78, 79(3), and 163	Director of Communities
<b>Criminal Procedure and Investigations Act 1996</b> Section 26	Director of Communities Director of Neighbourhoods
<b>Customs and Excise Management Act 1979</b> Section 176	Director of Communities
<b>Dairy Products (Hygiene) Regulations 1995 (made under the Food Safety Act 1990)</b> Regulations 6, 6(11), 7, 8, 16 and 19	Director of Neighbourhoods
<b>Dangerous Dogs Act 1991</b> Section 5	Director of Neighbourhoods
<b>Dangerous Wild Animals Act 1976</b> Sections 1, 3(1) to 3(3) and 4 Defective Premises Act 1972	Director of Neighbourhoods
<b>Dogs (Fouling of Land) Act 1996</b>	Director of Neighbourhoods

Section 4

**Egg Products (Regulations) 1993 (made under the Food Safety Act 1990)**

Regulations 5, 5(5), 8 and 9

Director of Neighbourhoods

**Energy Act 1976**

Section 18

Director of Neighbourhoods

**Energy Conservation Act 1981**

Sections 20, 23 and 24

Director of Neighbourhoods

**Environment Act 1995**

Sections 82 to 84, 88 and 90

Sections 108 to 113

Paragraphs 2 and 6 of Schedule 18

Director of Neighbourhoods

**Environmental Damage**

(Prevention and Remediation Regulations 2009)

Director of Neighbourhoods

**Environment and Safety Information Act 1988**

1 and 3

Director of Neighbourhoods Sections

**Environmental Protection Act 1990**

Sections 2 to 4, 6, 6(6), 7, 8, 8(8), 10, 10(2), 10(3A), 10(5), 11 to 14

19 to 22 and 24

Section 33

Section 46

Section 47

Section 47(5)

Sections 48, 49, 52, 55, 57, 59, 60, 62, 63 and 63A

Sections 78B to 78E, 78G, 78H, 78N, 78P, 78R to 78V, 78X, 78YC and 79 to 82

Sections 87 to 89, and 91 to 95

Section 140

Section 141

Sections 149 and 150

Section 156

Director of Neighbourhoods

**Essex County Council Act 1952**

Section 58

Director of Neighbourhoods

**European Communities Act 1972**

Section 2

Director of Neighbourhoods

**Fire Safety and Safety of Places of Sport Act 1987**

Sections 26 to 29, 31, 34 and 35

Director of Neighbourhoods

**Food and Environment Protection Act 1985**

Sections 16 and 19

Director of Neighbourhoods

**Food Premises (Registration) Regulations 1991**

All

Director of Neighbourhoods

**Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998**

All

Director of Neighbourhoods

**Food Safety & Hygiene (England) Regulations 2013**

All

Director of Neighbourhoods

**Food Hygiene (England) Regulations 2006**

Director of Neighbourhoods

All

**Food Safety Act 1990**

Director of Neighbourhoods

Sections 5 and 6

Sections 9 and 10 AO

Sections 11, 11(6) and 11(7)

Section 12 AO

Sections 18, 19, 23, 27 and 28

Section 29 AO

Section 30 AO

Section 31

Section 32 AO

Sections 32(2), 40 to 42, 44 to 46 and 49

Game Act 1831

Section 18

Game Licences Act 1860

Sections 4, 8 and 14

Gaming Act 1968

Sections 11 and 34, Schedule 2 and Schedule 9

**Guard Dogs Act 1975**

Director of Neighbourhoods

Section 3

**Health and Safety at Work etc Act 1974**

Director of Neighbourhoods

Section 2 CPO

Sections 2(1), 3, 4 and 15

Sections 18 and 19

Sections 20 to 23 and 25 INSPS

Sections 26, 27 and 34

Section 38 INSPS

Sections 39 and 43

**Highways Act 1980**

Director of Neighbourhoods

Sections 131 and 132

**Home Safety Act 1961**

Director of Neighbourhoods

Section 1

**Housing Act 1985**

Director of Communities

Sections 189, 190, 190A, 191A, 193 to 195, 197 and 202

Sections 264, 278, 279, 284, 286 to 288,

Sections 310, 315, 346 to 352A, 354, 356 to 358, 363 to 365, 368, 372, 375, 377, 377A, 378 to 381, 383 and 385

Sections 386 and 387

Section 389

Sections 390(2), 392, 395 and 397

Sections 604A, 605 and 606

Sections 611 and 617

**Housing Grants, Construction and Regeneration Act 1996** Director of Communities

Sections 4 to 18, 45 to 50, 63, 66 to 68, 70, 71, 71(2), 74, 76 to 79, 81, 82, 84 to 89, 92 and 97

Sections 108 to 111 and 115

Sections 131(4), 132, 134 to 136, 136(2) and 138

**Landlord and Tenant Act 1985**

Director of Communities

Sections 5, 19, 20B, 20ZA, 21, 21A, 21B, 22, 23, 29, 30, 30B and 31B

<b>Local Government and Housing Act 1989</b> Parts VII, VIII, IX	Director of Neighbourhoods
<b>Local Government Act 1972</b> Sections 114, 135, 139, 142, 144, 145(2), 214, 214(3), 214(5), 215, 222, 224, 230, 236 Paragraphs 11 and 24 of Schedule 26	<b>Ditto</b>
<b>Local Government Act 1974</b> Section 36	<b>Ditto</b>
<b>Local Government (Miscellaneous Provisions) Act 1976</b> Sections 13, 15, 16, 20, 33, 35, Part II	<b>Ditto</b>
<b>Local Government (Miscellaneous Provisions) Act 1982</b> Sections 27, 29, 30, 31, 32, 33, 37, 41, Paragraphs 7, 8, 9, 10, 13, 15 to 19 and 25 of Schedule 3	<b>Ditto</b>
<b>Local Government Act 1988</b> Sections 17, 20, 33, 37	<b>Ditto</b>
<b>Local Government Act 1999</b> Sections 3 to 5 Section 16 Section 26	<b>Ditto</b>
<b>Local Government Act 2000</b> Sections 150 and 151	<b>Ditto</b>
<b>Meat and Meat Preparations (Hygiene) Regulations 1995</b> Regulations 4, 5 and 12	Director of Neighbourhoods
<b>Meat Products (Hygiene) Regulations 1995</b> Regulations 4 to 6, 12 and 17	Director of Neighbourhoods
<b>Medicines Act 1968</b> Sections 108, 111 to 114, 117 and 119	Director of Neighbourhoods
<b>Motor Cycle Noise Act 1987</b> Section 1 and paragraph 3 of the Schedule	Director of Neighbourhoods
<b>National Assistance Act 1948</b> Section 47	Director of Neighbourhoods
<b>Noise Act 1996</b> All	Director of Neighbourhoods
<b>Noise and Statutory Nuisance Act 1993</b> Section 10	Director of Neighbourhoods
<b>Nurses Agencies Act 1957</b> Sections 2 and 3	Director of Neighbourhoods
<b>Open Spaces Act 1906</b> Section 10 Sections 11(1) to 11(4) Sections 12 and 13	Director of Neighbourhoods
<b>Pedlars Act 1871</b> Section 17	Director of Neighbourhoods

<b>Performing Animals (Regulation) Act 1925</b> Sections 1 to 4	Director of Neighbourhoods
<b>Pigs (Records Identification and Movement) Order 1995</b> The Order	Director of Neighbourhoods
<b>Plant Health Act 1967</b> Sections 5 and 6(3)	Director of Neighbourhoods
<b>Poisons Act 1972</b> Sections 5(1) to 5(3) 6 and 9(5) Section 9(6) INSPS Section 9(7) INSPS	Director of Neighbourhoods
<b>Police and Criminal Evidence Act 1984</b> Section 67(9)	Director of Communities
<b>Pollution Prevention and Control Act 1999</b> Section 2	Director of Neighbourhoods
<b>Prevention of Damage by Pests Act 1949</b> Sections 2, 4 to 7, 10, 19, 22 and 26	Director of Neighbourhoods
<b>Private Places of Entertainment (Licensing) Act 1967</b> Sections 3, 3A, 3C to 3E, 4, 4A and 4A(3)	Director of Neighbourhoods
<b>Private Water Supplies Regulations 1991</b> Private Water Supplies Regulations (England) 2009 (when enacted) Private Water Supply Regulations (England) 2009	Director of Neighbourhoods
<b>Protection of Animals Act 1911 to 1960</b> All relevant parts	Director of Neighbourhoods
<b>Protection of Animals (Amendment) Act 2000</b> Sections 2, 3, 3(2) and 4	Director of Neighbourhoods
<b>Public Health (Control of Disease) Act 1984</b> Sections 1, 11, 13, 16, 18 and 20 to 24 Sections 26 to 32 and 34 to 43 Sections 47, 48, 54, 56 to 59, 61, 64 and 69	Director of Neighbourhoods
<b>Public Health Act 1875</b> Sections 153 and 161 Section 164 Sections 165, 305 and 308	Director of Neighbourhoods
<b>Public Health Act 1925</b> Section 14 Sections 17 and 19 Section 56	Director of Neighbourhoods
<b>Public Health Act 1936</b> Sections 1, 45, 48 to 50, 83, 84 to 87, 124, 140, 221, 222, 223, 227, 260, 261, 264, 265, 268 to 270, 275, 276, 278, 284, 287, 290, 291, 293 and 298	Director of Neighbourhoods
<b>Public Health Act 1961</b> Sections 17, 22, 34, 36, 37, 45, 73, 74 and 77	Director of Neighbourhoods

<b>Refuse Disposal (Amenity) Act 1976</b> Sections 3, 6, 8	Director of Neighbourhoods
<b>Refuse Disposal Amenity Act 1978</b> Sections 1, 2, 3, 4, 5, 6 and 7	Director of Neighbourhoods
<b>Safety of Sports Grounds Act 1975</b> Sections 1 to 5, 10, 10B and 11	Director of Neighbourhoods
<b>Scrap Metal Dealers Act 1964</b> Sections 1, 1(3), 1(5), 1(6), 1(9), 3(1), 3(3), 9(2) and 9(3)	Director of Neighbourhoods
<b>Slaughter of Poultry Act 1967</b> Sections 4 and 6	Director of Neighbourhoods
<b>Slaughterhouses Act 1974</b> Sections 4, 5, 10, 19, 20, 22, 29, 41 and 42	Director of Neighbourhoods
<b>Sunbeds (Regulation) Act 2010</b>	Director of Neighbourhoods
<b>Sunday Entertainments Act 1932</b> Section 3	Director of Neighbourhoods
<b>Sunday Trading Act 1994</b> Section 2(3) Paragraphs 4(3) and 5 of Schedule 1 Paragraphs 1 and 2 of Schedule 2 Paragraphs 3(a) to 3(c) of Schedule 2 INSPS Paragraphs 3(d), 8(5) and 8(7) to 8(9) of Schedule 2 Paragraphs 3, 7 and 8 of Schedule 3	Director of Neighbourhoods
<b>Theatres Act 1968</b> Sections 13(4), 13(5) and 15 Paragraphs 1, 3 to 7 and 7C of Schedule 1	Director of Neighbourhoods
<b>Town and Country Planning Act 1990</b> Sections 215, 224 and 225	Director of Neighbourhoods
<b>Water Industry Act 1991</b> Sections 77 to 85 Section 115 Section 200	Director of Neighbourhoods
<b>Water Supply (Water Quality) Regulations 2000 (and any subsequent amending regulations)</b>	Director of Neighbourhoods
<b>Wildlife and Countryside Act 1981</b> Sections 20 and 25	Director of Neighbourhoods
<b>Zoo Licensing Act 1981</b> Sections 1, 4 to 7, 10 to 12 and 14 to 27	Director of Neighbourhoods

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# Part 4

## The Rules

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## COUNCIL RULES

Application:

Rules and procedures shown in columns 2 and 3 shall be applicable to those bodies as shown in the Application columns 4,5,6 and 7 using the following key:

C – Council

E – Executive

O – Overview and Scrutiny Committee and Panels

NE – Other non Executive and Regulatory Committees, Subcommittees, Panels and Working Groups

No.	Rule	Procedure	Application			
			C	E	O	NE
A1	<b>AMENDMENT OF COUNCIL PROCEDURE RULES</b>	Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.	X			
A2	<b>ATTENDANCE OF NON-MEMBERS AT MEETINGS</b>	Any member of the Council may attend a meeting of the Cabinet, a Cabinet Committee any other Committee, Sub-Committee, Panel, Board or Working Group of the Council, except a meeting of a committee dealing solely with quasi-judicial matters. With the permission of the Chairman, a member may take part in discussion but may not vote and may not introduce any new business.	X	X	X	X
C1	<b>CANCELLATION OF MEETINGS</b>	The decision to cancel any meeting of the Council shall be made by the Chairman in consultation with the Chief Executive (or his representative). In circumstances where a meeting has to be cancelled for reasons which are outside the Council's control at short notice, the decision to cancel shall be made no later than 2 hours before the commencement of the meeting and notified to all Councillors and other interested persons as soon as possible thereafter.	X	X	X	X
C2	<b>CHAIRMAN OF MEETING</b>	The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to Committee and Sub-Committee meetings, references to the Chairman also include the Chairman of Committees, Sub-Committees, Working Groups and Panels.	X	X	X	X

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		<p>If the appointed Chairman and Vice Chairman are absent, another member from those present shall preside for all or part of the meeting in question.</p> <p>The Leader shall be the Chairman of the Cabinet and in his/her absence the Deputy Leader shall preside</p>	X	X	X	X
D1	<b>DISCHARGE OF COMMITTEE BUSINESS AFTER ELECTION</b>	In order to ensure the continuous discharge of the ordinary current business of the Council pending the reconstitution of the committees after the retirement of councillors on the fourth day following an election, each committee shall after the retirement of councillors and until reconstituted by the Council, consist of such members of the committee who remain or who have been re-elected members of the Council.				X
D2	<b>DISTURBANCE BY PUBLIC</b>	<p><b>Removal of Member of the Public</b></p> <p>If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.</p> <p><b>Clearance of Part of Meeting Room</b></p> <p>If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.</p>	X	X	X	X
E1	<b>EXCLUSION OF PUBLIC</b>	Members of the public and press may only be excluded either in accordance with the Access to Information Article and following Disturbance by Public.	X	X	X	X
E2	<b>EXTRAORDINARY COUNCIL MEETINGS – CALLING OF</b>	<p>(1) Those listed below may request the Proper Officer to call Council meetings in addition to ordinary meetings:</p> <p>(i) the Council by resolution;</p> <p>(ii) the Chairman of the Council;</p>	X			

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		<p>(iii) the Monitoring Officer; and</p> <p>(iv) any five members of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.</p> <p>(2) Single Issue Council Meetings - The Leader may, from time to time, call for a Council meeting to be held dealing with a single issue of critical importance to the residents of the District. The normal rules of debate will apply in the case of 'single issue' Council meetings. Such meetings will be extraordinary Council meetings.</p>				
<b>E3</b>	<b>EXTRAORDINARY MEETINGS – OTHER BODIES</b>	It shall be competent for the Chairman of the Cabinet, any committee, subcommittee, panel or working group to call an extraordinary meeting following advice from the proper officer.		<b>X</b>	<b>X</b>	<b>X</b>
<b>I1</b>	<b>INTERESTS</b>	<p>(1) Any member of the Council who has registered a disclosable pecuniary interest or has a pending notification of such interest in any items of business to be considered by the authority, must withdraw from the Council Chamber (or other meeting room) including the public gallery during the whole consideration of that item except if he or she is permitted to remain as a result of a dispensation.</p> <p>(2) Such requirements shall also apply to any Cabinet members with a disclosable pecuniary interest (including a pending notification) who shall be debarred from determining any matter which they would otherwise have dealt with as a portfolio holder under delegated authority.</p> <p>(3) Where a member of the Council has not registered such an interest or does not have a pending notification, they shall declare the existence and nature of that interest and withdraw from the meeting during discussion of any relevant item of business.</p> <p>(4) The Leader may take a decision, direct another member of the executive to do so, refer the matter for Cabinet decision or delegate to the decision to another officer where the exercise of an</p>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>

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		executive function that has been delegated to an individual member or an officer gives rise to a pecuniary or non-pecuniary interest				
M1	<b>MEMBERS' CONDUCT</b>	<p><b>Standing to Speak</b></p> <p>When a member speaks at full Council they must stand and address the meeting through the Chairman. If more than one member stands, the Chairman will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.</p> <p><b>Chairman Standing</b></p> <p>When the Chairman stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.</p> <p><b>Member not to be Heard Further</b></p> <p>If a member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman may move that the member be not heard further. If seconded, the motion will be voted on without discussion.</p> <p><b>Member to Leave the Meeting</b></p> <p>If the member continues to behave improperly after such a motion is carried, the Chairman may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.</p> <p><b>General Disturbance</b></p> <p>If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary.</p>	X	X	X	X
			X	X	X	X
			X	X	X	X
			X	X	X	X

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M2	<b>MINORITY REFERENCES</b>	<p>(1) It shall be competent for at least one quarter (rounded up to the nearest whole number) of the number of Council members of a Committee present at a meeting of that Committee to require immediately after a vote has been taken at the meeting that no action be taken on a particular matter until it has been considered by the Council. In the case of Sub-Committees acting under delegated authority (except for Plans Sub-Committees) it shall be competent for one quarter (rounded up to the nearest whole number) of the members of that Sub-Committee present at a meeting of that Sub-Committee to require at the meeting that no action be taken on a particular matter until it has been considered by the parent committee.</p> <p>(2) In relation to Area Plans Sub-Committees it shall be competent for at least four members of that Sub-Committee present at a meeting of that Sub-Committee to require that no action be taken on a particular matter until it has been considered by the District Development Control Committee.</p> <p>(3) This Standing Order shall apply only to items of business at a committee or sub-committee meeting and not to those submitted for information or report.</p>				X
M3	<b>MINORITY REPORTS</b>	If a minority consisting of not less than one quarter (rounded up to the nearest whole number) of the members present at any meeting proposing to report to its parent body and forwards it to the Chief Executive so that it is received by the tenth working day (or such other time as is agreed with the Chief Executive) following the date of the meeting, copies of such minority reports shall be circulated by the Chief Executive with the report of the body concerned.				X
M4	<b>MINUTES</b>	<p><b>Signing the Minutes</b></p> <p>The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.</p> <p><b>Extraordinary Meetings</b></p>	X	X	X	X
			X			

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		<p>Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.</p> <p><b>Form of Minutes</b></p> <p>Minutes will contain all motions and amendments in the exact form and order in which the Chairman put them.</p>	X			
M5	MOTIONS - ON NOTICE	<p><b>Notice of Motion</b></p> <p>Except for motions which can be moved without notice, written notice of every motion, signed by at least the mover and seconder of the proposed motion, must be delivered, in writing, to the Chief Executive not later than seven working days before the date of the meeting.</p> <p><b>Motions to be set out in Agenda</b></p> <p>Motions for which notice has been given will be listed on the agenda in the order in which each notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it. Any motion involving executive functions shall automatically stand referred to the Cabinet and any motion which deals with the Council's policy or budget frameworks, the Constitution or any matter requiring the consent of the Council, shall be subject to a report back to the next appropriate Council meeting.</p> <p><b>Scope of Motions</b></p> <p>Motions must be about matters for which the Council has a responsibility or which affect the Epping Forest District.</p>	X			
			X			

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M6	MOTIONS - RULES OF DEBATE -	<b>No Speeches until Motion Seconded</b>  No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.	X			
		<b>Right to Require Motion in Writing</b>  Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him/her before it is discussed.	X			
		<b>Secunder's Speech</b>  When seconding a motion or amendment, a member may reserve their speech until later in the debate.	X			
		<b>Content and Length of Speeches</b>  Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Council. (Length of speeches applies only to Council meetings)	X			
		<b>When a Member may Speak Again</b>  A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:  (a) to speak once on an amendment moved by another member; (b) to move a further amendment if the motion has been amended since he/she last spoke; (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried); (d) in exercise of a right of reply;	X			

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		<p>(e) on a point of order; and            (f) by way of personal explanation.</p> <p><b>Amendments to Motions</b></p> <p>(a) An amendment to a motion must be relevant to the motion and will either be:            (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;            (ii) to leave out words;            (iii) to leave out words and insert or add others; or            (iv) to insert or add words as long as the effect of (ii) to (iv) is not to negate the motion.</p> <p>(b) only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.</p> <p>(c) if an amendment is not carried, other amendments to the original motion may be moved.</p> <p>(d) if an amendment is carried, the motion as amended takes the place of the original motion becoming the substantive motion to which any further amendments may be moved.</p> <p>(e) after an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.</p> <p><b>Alteration of Motion</b></p> <p>(a) A member may alter a motion of which he/she has given notice with the consent of the Council. The Council's consent will be signified without discussion.</p> <p>(b) A member may alter a motion which he/she has moved without notice with the consent of both the Council and the seconder. The Council's consent will be signified without discussion.</p>	X			
			X			

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		<p>(c) Only alterations which could be made as an amendment may be made.</p> <p><b>Withdrawal of Motion</b></p> <p>A member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The Council's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused by the Council.</p> <p><b>Right of Reply</b></p> <p>(a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.</p> <p>(b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.</p> <p>(c) The mover of the amendment has no right of reply to the debate on his or her amendment.</p> <p><b>Motions which may be Moved during Debate</b></p> <p>When a motion is under debate, no other motion may be moved except the following procedural motions:</p> <p>(a) to withdraw a motion;</p> <p>(b) to amend a motion;</p> <p>(c) to proceed to the next business;</p> <p>(d) that the question be now put;</p> <p>(e) to adjourn a debate;</p> <p>(f) to adjourn a meeting;</p> <p>(g) to exclude the public and press in accordance with the Access to Information Article; and</p>	X			
			X			
			X			X

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		(i) to not hear further a member or to exclude them from the meeting.				
		<p><b>Point of Order</b></p> <p>A member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final.</p>	X			X
		<p><b>Personal Explanation</b></p> <p>A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.</p>	X			X
		<p><b>Motions referred to Overview and Scrutiny</b></p> <p>Any motion adopted by the Council following due notice from a Member of the Council and which relates to the responsibilities of Overview and Scrutiny shall, on adoption, stand referred to the Overview and Scrutiny Committee for consideration. In determining how to respond to the motion, the Overview and Scrutiny Committee shall consider whether the proposal should be incorporated in the work programme or held for future consideration in accordance with the procedures outlined in Paragraph 4 and 5 above. The Committee shall also advise the Council, via the Members' Information Bulletin, of the action taken on such motions.</p>	X			
		<p><b>Mover of Motion may attend Committees</b></p> <p>When a motion has been referred to the Executive or any Committee from a meeting of the Council, the member of the Council who has moved or given notice of intention to move the motion and his seconder shall have notice of the meeting at which it is proposed to consider the</p>	X	X	X	X



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		<p>thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.</p> <p>(l) closure motion - to adjourn a meeting (see above)</p> <p>(m) to suspend a particular council procedure rule;</p> <p>(n) to exclude the public and press in accordance with the Access to Information Rules;</p> <p>(o) not to hear further a member or to exclude a member from the meeting;</p> <p>(p) to extend the time allowed for any member's speech under (Council only); and</p> <p>(q) to give the consent of the Council where its consent is required by this Constitution.</p>				
<b>N1</b>	<b>NOTICE AND SUMMONS TO MEETINGS</b>	The Chief Executive will give notice to the public of the time and place of any meeting in accordance statutory regulation. The notice (or summons) will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>P1</b>	<b>PETITIONS</b>	All petitions received by the Council shall be dealt with in accordance with the Authority's approved procedure shown at Appendix 1 to these rules	<b>X</b>			
<b>P2</b>	<b>PLANNING APPLICATIONS</b>	Any planning application submitted directly to a Council meeting without prior consideration by the District Development Committee and/or an Area Sub-Committee shall be subject to the procedure for public participation by applicants, objectors and parish/town councils in the same way as those applied to Committees and Sub-Committees.	<b>X</b>			
<b>P3</b>	<b>POLITICAL GROUP REPRESENTATIVES</b>	<p>(1) The political groups on the Council shall, prior to the commencement of each Council year, nominate one of their members serving on each of the Committees and Sub-Committees specified in (2) below as their representative on those Committees and Sub-Committees.</p> <p>(2) For the purpose of (1) above, the Committees specified shall be as follows: District Development Control Committee and Area Plans Sub-Committees.</p> <p>(3) The nominated representatives of each group shall be reported to the Council at its annual</p>	<b>X</b>			

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		meeting.				
Q1	<b>QUESTIONS BY MEMBERS FOLLOWING NOTICE</b>	<p>(1) A member of the Council may ask a question on any matter in relation to which the Council has powers or duties or which affects the Epping Forest District to:</p> <p>(a) the Chairman;</p> <p>(b) the Leader;</p> <p>(c) a Portfolio Holder</p> <p>(c) the Chairman of any Committee or Sub-Committee</p> <p><b>Notice of Questions</b></p> <p>(2) A member may only ask a question under Rule (1) above if either:</p> <p>(a) they have given at least four working days' notice in writing of the question to the Chief Executive; or</p> <p>(b) the question relates to urgent matters, the content of the question is given in writing to the Chief Executive and they have the consent of the Chairman by 10.00 a.m. on the day of the meeting.</p> <p><b>Replies to Questions under notice</b></p> <p>(3) An answer may take the form of:</p> <p>(a) direct oral answer;</p> <p>(b) where the desired information is in a publication of the Council or other published work, a</p>	X			

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		<p>reference to that publication; or</p> <p>(c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.</p> <p>Answers to questions falling within categories (a) and (b) above shall be made available to the member asking the question one hour before the meeting of the Council at which the question will be put. Answers to questions under (c) above will be circulated to all Councillors.</p> <p><b>Supplementary Question</b></p> <p>A member asking a question under Rule (2) above may ask one supplementary question without notice of the member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.</p>				
Q2	<b>QUESTIONS BY MEMBERS WITHOUT NOTICE</b>	<p>(1) A member of the Council may ask the Leader, Chairman of Overview and Scrutiny or any member of the Cabinet any question without notice on any matter in relation to which the Council has powers or duties or which affects the Epping Forest District.</p> <p><b>Response to a question without notice</b></p> <p>(2) An answer to a question without notice may take the form of:</p> <p>(a) direct oral answer.</p> <p>(b) direct oral answer from the Chairman of the Overview and Scrutiny Committee or, if appropriate, from another member dealing with that issue as part of an Overview and Scrutiny review;</p> <p>(c) where the desired information is in a publication of the Council or other published work, a reference to that publication;</p>	X			

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		<p>(d) where the reply cannot be conveniently be given orally, a written answer circulated later to the questioner; or</p> <p><b>Time Limit for Questions without Notice to the Leader of Council &amp; Portfolio Holders on Written Reports and Other Matters</b></p> <p>(3) A time limit of 30 minutes shall be set for questions under this Rule. Any question which cannot be dealt with within the time available will receive a written reply.</p> <p>(4) Questions without notice on written reports and on other matters will be dealt with by the Chairman of the Council as follows:</p> <p>(a) by extending the period of thirty minutes by up to 10 minutes at his/her discretion; and</p> <p>(b) by ensuring that questions by members are dealt with in the order in which they are put and that all questions from each political group and from independent members receive a reply.</p> <p><b>Time Limit for Questions without Notice to the Chairman of the Overview &amp; Scrutiny Committee on Written Reports and Other Matters</b></p> <p>(5) questions without notice on reports of the Chairman of the Overview &amp; Scrutiny Committee and on any other matter affecting Overview &amp; Scrutiny will be dealt with at the same time as other business from that Committee and shall be limited to a period of ten minutes extended by the Chairman's discretion by a further ten minutes if necessary; and</p> <p>(6) the Chairman of the Council shall apply the rules for questions set out in Rule (1) and (2) above to questions to the chairman of the Overview &amp; Scrutiny Committee.</p> <p><b>Supplementary Questions</b></p>				

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		(7) The will be no supplementary questions permitted in respect of questions put under this Rule.				
Q3	<b>QUESTIONS BY THE PUBLIC</b>	<p><b>General</b></p> <p>(1) Members of the public may ask questions of the Leader, Chairman of Overview and Scrutiny Committee or any Portfolio Holder at ordinary meetings of the Council and of Cabinet members at Cabinet meetings.</p> <p><b>Order of Questions</b></p> <p>(2) Questions will be asked in the order in which notice of them was received, except that the Chairman may group together similar questions.</p> <p><b>Notice of Questions</b></p> <p>(3) A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive at least 4 working days before the meeting. Each question must give the name and address of the questioner.</p> <p><b>Number of Questions</b></p> <p>(4) At any one meeting no person may submit more than two questions and no more than two such questions may be asked on behalf of one organisation.</p> <p><b>Scope of Questions</b></p> <p>(5) The Chief Executive may reject a question if it:</p> <p>(a) is not a question on any matter in relation to which the Council has powers or duties or which affects the Epping Forest District.</p>	X	X		

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		<p>(b) is defamatory, frivolous or offensive;</p> <p>(c) is substantially the same as a question which has been put at a meeting of the Council or Cabinet in the past six months; or</p> <p>(d) requires the disclosure of confidential or exempt information.</p> <p>If a question is rejected, the Chief Executive will reply to the questioner outlining the reasons why the question was rejected and report the matter for noting to the next relevant meeting of the body concerned.</p> <p><b>Dealing with Questions</b></p> <p>(6) The Chief Executive will immediately send a copy of any received question to the member determined by the Leader or Chairman as being responsible for the response. Copies of all questions, including those rejected, will be tabled at the meeting.</p> <p><b>Asking the Question at the Meeting</b></p> <p>(7) The Chairman will invite the questioner to put the question to the relevant member. If a questioner who has submitted a written question is unable to be present, he/she may ask the Chairman to put the question on their behalf.</p> <p><b>Supplementary Question</b></p> <p>(8) A questioner who has put a question in person may also put one supplementary question without notice to the member who replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule (5) above.</p>				

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		<p><b>Written Answers</b></p> <p>(9) Any question which cannot be dealt with during public question time will be dealt with by a written answer.</p> <p><b>Reference of Question to the Executive or a Committee/Sub-Committee</b></p> <p>(10) No discussion will take place on any question, but any member may move that a matter raised by a question be referred to the Executive or a Committee. Once seconded, such a motion will be voted on without discussion.</p>				
<b>Q4</b>	<b>QUORUM</b>	<p>(1) The quorum of a meeting will be one quarter of the whole number of members or a minimum of three members unless otherwise specified below. During any meeting if the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.</p> <p>(2) The quorum for a meeting of an Area Plans Subcommittee or Licensing Committee is five or more members.</p> <p>(3) The quorum for a meeting of the Cabinet, shall be 5 members of the executive. The quorum for a Cabinet Committee shall be three members. Appendix 1 to these rules sets out procedures for safeguarding the Cabinet quorum in exceptional circumstances.</p>	<b>X</b>		<b>X</b>	<b>X</b>
				<b>X</b>		<b>X</b>
<b>R1</b>	<b>RECISION OR REJECTION OF</b>	<b>Motion to Rescind a Previous Decision</b>	<b>X</b>			

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	<b>PREVIOUS DECISIONS AND MOTIONS</b>	<p>A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 15 members.</p> <p><b>Motion Similar to One Previously Rejected</b></p> <p>A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 15 members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.</p>	X			
<b>R2</b>	<b>RECORD OF ATTENDANCE</b>	All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.	X	X	X	X
<b>S1</b>	<b>SUBSTITUTE MEMBERS - APPOINTMENT</b>	<p>(1) A Leader, Deputy Leader or other appointed member of a political group shall be authorised to nominate to the Assistant to the Chief Executive substitute members from that group in respect of any committee, sub-committee, panel, board or working group of the Council, subject to the following conditions:</p> <p>(i) notice being given to Democratic Services by not later than 60 minutes before the commencement of the meeting concerned;</p> <p>(ii) any political group member so appointed shall be notified to the Assistant Director Governance and Performance Management at the beginning of each Council year;</p> <p>(iii) the substitution notification deadline shall be included on every agenda where substitution is permitted under the Council's Constitution.</p> <p>(iv) substitutions on Cabinet Committees shall be restricted to other members of the Executive</p> <p>(v) substitutes on Area Planning Subcommittees are not permitted</p> <p>(2) It shall be competent for the Chief Executive, in circumstances where a political group</p>	X		X	X
				X		X
			X			

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		notifies that a Councillor from that group will be temporarily unable to attend a Committee for a period of 8 weeks by reason of serious illness or other incapacity, to approve a substitute member and to report to the Council on action taken.				
<b>S2</b>	<b>SUSPENSION OF THE RULES</b>	<p>A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present.</p> <p>The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.</p> <p>It shall be competent for the Head of Paid Service, after consultation with the Monitoring Officer, to seek a decision from relevant members on the suspension of any rule on grounds of public interest.</p> <p>Such suspension shall be recorded as a decision of the executive and notified to all Councillors.</p>	<b>X</b>			
<b>T1</b>	<b>TIME AND PLACE OF MEETINGS</b>	<p>(1) Meetings of the Council shall be held at the Civic Offices, High Street, Epping at 7.30 p.m. or at such other time or venue as the Chairman of the Council may determine in consultation with the Chief Executive.</p> <p>(2) The time and place of other meetings of the authority shall be agreed with the Chairman of the meeting concerned and approved by that committee at its next meeting.</p> <p>(3) A calendar of meetings shall be approved by the council annually</p>	<b>X</b>			
				<b>X</b>	<b>X</b>	<b>X</b>
			<b>X</b>			
<b>V1</b>	<b>VOTING</b>	<p><b>Majority</b></p> <p>Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.</p> <p><b>Chairman's Casting Vote</b></p>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
			<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>

No.	Rule	Procedure	Application			
			C	E	O	NE
		<p>If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a second or casting vote.</p> <p><b>Show of Hands</b></p> <p>Unless a recorded vote is demanded (Council only), the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.</p> <p><b>Recorded Vote</b></p> <p>If five members present at the meeting require it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.</p> <p><b>Right to Require Individual Vote to be Recorded</b></p> <p>Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.</p>	X	X	X	X
V2	<b>VOTING ON APPOINTMENTS</b>	<p>If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.</p>	X		X	
V3	<b>VOTING ON BUDGET/COUNCIL TAX</b>	<p>The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 require that immediately after any vote on the budget or council tax is taken at a budget decision meeting of an authority, the individual votes on a decision must be recorded in the minutes of the meeting.</p> <p>In accordance with the Council's Code of Conduct, no declarable pecuniary interest is created by the requirement of this rule.</p>	X			

## Petition Scheme – Epping Forest District Council

### 1. Definition

1.1 For the purpose of this procedure a petition is a request to the Council made either (i) in writing; or (ii) through the Council's e-petitions system on its website.

### 2. Scope of Scheme

2.1 The Council will accept paper based petitions, e-petitions (but only those submitted on through its own petitions system) or a mix of paper and e-petitions. The proper officer for petitions is the Assistant Director of Governance and Performance Management.

### 3. Acknowledgement

3.1 All petitions sent or presented to the council shall receive an acknowledgement from the council within seven days of receipt. This acknowledgement will set out what the Council plan to do with the petition. The Council shall treat something as a petition if it is identified as being a petition, or if it seems to the Council that it is intended to be a petition.

### 4. Exceptions to Petitions

4.1 The following petitions do not fall within the scope of this petitions scheme:

(a) Emailed petitions, as email systems are not secure. Petitioners must use either paper or the Council's EPetitions system. The Council will not monitor third party petitions systems.

(b) Petitions which are considered to be vexatious, abusive, anonymous or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum the Council may need to deal with a petition differently – if this is the case the Council will explain the reasons with the petitioner and discuss the revised timescale which will apply.

(c) Petitions relating to a planning decision; (as the Planning application process deals with objections to applications), including those about a development plan document or the community infrastructure levy.

(d) Petitions relating to a licensing decision; (as the Licensing scheme deals with objections to applications)

(e) Petitions relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal.

(f) Any matter for which the Standards Committee has powers for determining complaints received under the Local Assessment process.

(g) Any complaint made against an employee of the District Council.

(h) Any matter which is substantially the same as a petition submitted in the previous 12 months.

(i) Where the subject matter is subject to ongoing legal proceedings.

(j) Petitions made during formal Council consultations related to the subject matter of the consultations (these will be formally referred to that process as appropriate)

4.2 Where a petition submitted relates to one of the categories set out above the Council will write to the lead petitioner and explain why the matter is not covered by the authority's Petitions Scheme. In appropriate circumstances, the Council may advise how the public views can be considered via alternative means.

## **5. Submission guidelines/Signatory Requirements**

5.1 Petitions submitted to the council must include:

(a) A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take.

(b) The name and address and signature of any person supporting the petition.

(c) Contact details, including an address (and a valid email address if submitted electronically), for the petition organiser

5.2 If the petitioner contacts the Council to start an e-Petition, then the Council and the Lead Petitioner will agree the period over which signatures will be collected and to agree the final wording of the petition. The petition will then be available to sign 'electronically' for the agreed period on the Council's website. On the expiration of that time, the Council will respond in accordance with Section 7 below.

5.3 Anyone who lives, works or studies in Epping Forest District is entitled to sign to support a petition. The supporters Name, Address, a valid email address and/or postcode are required to sign an e-Petition on the Council's website. For paper petitions signatories must provide their, name, address and signature

5.4 E-petitions will run on the Council website for a maximum of 3 months, but the Council and the lead petitioner can choose a shorter timeframe up to the maximum.

## **6. The procedure when the Council receives a petition**

6.1 The Council will send the lead petitioner an acknowledgement of the petition within 7 working days. Local ward councillors will be informed of the receipt of a petition.

6.2 If the Council is able to do what the petition asks for, the acknowledgement may confirm that the Council have taken the action requested and the petition will be closed.

6.3 If the petition needs more investigation, the Council will tell the lead petitioner the steps the Council plan to take.

6.4 If the lead petitioner has created an e-petition, the Council will check that the content of the e-petition is suitable before it is made available for signature. This will take a maximum of ten working days.

6.5 If the Council cannot publish an e-petition for some reason, the Council will contact the lead petitioner within ten working days to explain the reason for not publishing a petition based upon the exceptions in section 4 above.

6.6 A lead petitioner is able to change and resubmit their e-petition within 10 working days, if they fail to do so within that time, a summary of the e-petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

## 7. *How the Council considers petitions*

<b>Petition type</b>	<b>Response</b>
Correspondence with fewer than 20 signatures	This will normally be dealt with by the appropriate Directorate as ordinary correspondence, unless the Service Director concerned is of the opinion that the subject matter is sufficiently important or contentious to warrant referring the matter to the appropriate Portfolio Holder.
Petitions with more than 20 but fewer than 1200 signatures	These will be considered and dealt with by the relevant portfolio holder who may: <ul style="list-style-type: none"> <li>(a) take action if he or she has delegated powers to act alone;</li> <li>(b) prepare a report to the Cabinet or a Sub-Committee of the Cabinet for decision if appropriate.</li> </ul>
Petition containing at least 1200 signatures.	The relevant Portfolio Holder will prepare a report to the Cabinet for decision on the matter.
2400 signatures or more	These large petitions will be scheduled for a council debate and if this is the case we will let you know whether this will happen
e-petitions	When an e-petition has closed for signature, it will automatically be submitted to the relevant officer, portfolio holder or Council In the same way as a paper petition.

## 8. **Decisions on petitions**

The Council's response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a council meeting

- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by the Cabinet or a Cabinet Committee
- writing to the petition organiser setting out our views about the request in the petition

In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

If a petition is about something over which the council has no direct control (for example healthcare or transport) the responsible body (under section 7 above) will consider making representations on behalf of the community to the relevant body.

If the Council are not able to meet the petitioners requests for any reason (for example if what the petition calls for conflicts with council policy), then the Council will set out the reasons for not taking the action requested in writing to the Lead Petitioner.

Decisions made by the Portfolio Holder will be recorded in writing and notified to the public, the lead petitioner and all members of the Council.

All received petitions will be reported to Council via regular Portfolio Holder reports.

## **9. Petitions received after a decision is made**

In cases where a petition is received after a decision has been made by the Council on any matter, the following steps will be taken by the Director unless the petition meets the threshold for a Council debate:

- (a) a letter of acknowledgement shall be sent to the lead petitioner, including a statement of the action already taken by the Council;
- (b) in consultation with the appropriate Portfolio Holder, Committee or Sub-Committee Chairman a decision will be taken as to whether the petition raises new evidence requiring further consideration by the Portfolio Holder or Committee concerned;
- (c) if it is decided that no new matters are raised by the petition, the lead petitioner shall be advised accordingly;
- (d) if new matters are raised then the petition will be treated as 'new' under this scheme.

## **10. Full Council and Cabinet debates**

If a petition contains more than 2400 signatures it will be debated by the full council at its next ordinary meeting.

If a petition contains more than 1200 signatures it will be subject to report and debate by the cabinet at its next available meeting.

The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors.

The Council or Cabinet will decide how to respond to the petition at this meeting.

The Council or Cabinet may:

- (a) decide to take the action the petition requests, and in the case of a Cabinet debate, report to Council if appropriate (see paragraph 11 below)
- (b) not to take the action requested for reasons put forward in the debate, or
- (c) commission further investigation into the matter, for example by the Cabinet (if the matter was debated at Council) or a relevant Cabinet committee.

#### **11. Council Referrals**

Where the issue is one on which the council executive are required to make the final decision (i.e. within the financial and policy framework), the council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

# Financial Regulations

## Contents

### Status of Financial Regulations

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#### APPENDICES

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## **STATUS OF FINANCIAL REGULATIONS**

1. Financial Regulations provide the framework for managing the Council's financial affairs. These financial regulations apply to every Member and officer of the authority and anyone acting on its behalf.
2. These Financial Regulations supersede all other regulations and financial standing orders issued previously.
3. Nothing in these Regulations shall be construed as overriding the provisions of legislation or any subordinate regulations from time to time in force.
4. The Regulations identify the financial responsibilities of the Council, Cabinet and overview and scrutiny Members, the Head of Paid Service (Chief Executive ), the Monitoring Officer, the Chief Finance Officer and other Chief Officers. Portfolio Holders and Chief Officers should maintain a written record where decision-making has been delegated to Members of their staff, including seconded staff. Where decisions have been delegated or devolved to other responsible officers, such as nominated spending control officers, references to the Chief Officer in the regulations should be read as referring to them.
5. All Members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
6. All Members and staff must conduct themselves with the highest standards of integrity and must do their utmost to ensure that suspicions do not arise concerning improper motivation. Officers graded as senior or above shall avoid conflicts of interest by not engaging in any other business or taking up any other additional appointments (whether paid or not) without the express consent of the Council.
7. The Chief Finance Officer is responsible for maintaining a continuous review of the Financial Regulations and submitting any additions or changes necessary to the Full Council for approval. In any event these regulations will be formally reviewed every five years. The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of the financial regulations to the Council and/or to the Cabinet.
8. The issuing of these Regulations does not preclude the issuing of further instructions on financial matters by the Chief Finance Officer who must be consulted on any aspects of financial administration not contained within these Regulations.
9. The Council's detailed financial procedures, setting out how the regulations will be implemented, are contained in the appendices to the Financial Regulations. Any procedure notes issued by the Chief Finance Officer in accordance with these financial regulations have the same status as the Financial Regulations and therefore must be complied with as if they were contained within the financial regulations.
10. Chief Officers are responsible for ensuring that all staff in their service areas are aware of the existence and content of the Council's Financial Regulations and other internal regulatory documents and that they comply with them. They must also ensure that an adequate number of copies are available for reference within their service areas.

11. The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Regulations that Members, officers and others acting on behalf of the authority are required to follow. However any question arising on the interpretation of these Financial Regulations shall be referred to Council whose decision shall be final.
12. A separate executive summary of Financial Regulations exists to guide officers who need, from time to time, to refer to a checklist of controls for a particular topic. The guide is complimentary to this full set of Regulations but does not relieve officers of their obligation to refer to these main Financial Regulations in conducting the Council's business.

## **FINANCIAL REGULATION A: FINANCIAL GOVERNANCE**

- A1 Financial governance covers all financial accountabilities in relation to the running of the authority, including the policy framework and budget.

### **THE COUNCIL**

- A2 The Council is responsible for adopting the authority's constitution and Members' code of conduct and for approving the policy framework and budget within which the Cabinet operates.
- A3 The Council is responsible for approving and monitoring compliance with the Council's overall framework of accountability and control and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. The framework is set out in its constitution. Decisions should be referred to the Council by the Monitoring Officer and/or the Chief Finance Officer. The Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework
- A4 The Council is responsible for agreeing procedures for year end carrying forward of under and overspendings on budget headings and for agreeing procedures by which the Cabinet may undertake in year virements of expenditure between Portfolios and between individual portfolio budget headings.
- A5 The Council is responsible for approving the annual statement of accounts following detailed scrutiny by the Audit and Governance Committee.
- A6 The Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated by and decisions taken by the Council, Cabinet and Portfolio Holders. These delegations and details of who has responsibility for which decisions are set out in the constitution. The Council is also responsible for monitoring compliance with the agreed policy and related Cabinet and Portfolio Holder decisions.

### **THE CABINET**

- A7 The Cabinet is responsible for proposing the policy framework and budget to the Council, and for discharging Executive functions in accordance with the policy framework and budget.
- A8 The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits and in accordance with the scheme of virement set by the Council.
- A9 Cabinet decisions can be delegated to a committee of the Cabinet, an individual cabinet member (Portfolio Holder), an officer or a joint committee.
- A10 A scheme of protocols exist to ensure that individual Portfolio Holders consult with relevant Members and officers before taking a decision within his or her delegated authority. In doing so, the individual member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

## **OVERVIEW AND SCRUTINY COMMITTEE**

- A11 The Overview and Scrutiny Committee and Standing or ad hoc Scrutiny Panels are responsible for scrutinising Cabinet decisions before or after they have been implemented and for holding the Cabinet to account. The Overview and Scrutiny Committee is also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the Council .

## **AUDIT AND GOVERNANCE COMMITTEE**

- A12 The Council has a number of strategies in place to regulate its activities and demonstrate the robustness of its governance arrangements. The key function of the Audit and Governance Committee is to take a view on whether these strategies have been properly formulated and remain effective, in order to provide independent assurance to the Council on the adequacy of the internal control and risk management frameworks.

## **FINANCE AND PERFORMANCE MANAGEMENT CABINET COMMITTEE**

- A13 The Finance and Performance Management Cabinet Committee is an advisory body and reports to the Cabinet. It has responsibility for advising the Cabinet on all financial matters including the annual revenue and capital budget and the level of Council Tax. It is also responsible for advising the Cabinet on risk management issues.

## **STANDARDS COMMITTEE**

- A14 The Standards Committee is established by the Council and is responsible for promoting and maintaining high standards of conduct amongst councillors. In particular, it is responsible for advising the Council on the adoption and revision of the Members' Code of Conduct, and for monitoring the operation of the Code.

## **OTHER REGULATORY COMMITTEES**

- A15 Planning and licensing are not Cabinet functions but are exercised through the multi-party District Development Control Committee and the Licensing Committee under powers delegated by the Council. The District Development Control Committee and the Licensing Committee reports to the Council.

## **THE STATUTORY OFFICERS**

### **Head of Paid Service (Chief Executive)**

- A16 The Head of Paid Service is responsible for the corporate and overall strategic management of the authority as a whole. He or she must report to and provide information for the Cabinet, the Council, the Overview and Scrutiny Committee and other Committees and Standing or ad hoc Panels. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of Paid Service is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the Council's decisions (see below).

## **Monitoring Officer**

- A17 The Monitoring Officer is responsible for promoting and maintaining high standards of conduct and therefore provides support to the Standards Committee on a range of matters set out in Article 12 of the Constitution. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the Council and/or to the Cabinet, and for ensuring that procedures for recording and reporting key decisions are operating effectively.
- A18 The Monitoring Officer must ensure that Cabinet decisions and the reasons for them are made public. He or she must also ensure that Council Members are aware of decisions made by the Cabinet and of those made by officers who have delegated Executive responsibility.
- A19 The Monitoring Officer is responsible for advising all councillors and officers about who has authority to take a particular decision.
- A20 The Monitoring Officer is responsible for advising the Cabinet or Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.
- A21 The Monitoring Officer (together with the Chief Finance Officer) is responsible for advising the Cabinet or Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget.
- A22 The Monitoring Officer is responsible for maintaining an up-to-date Constitution.

## **Chief Finance Officer**

- A23 The Chief Finance Officer has statutory duties in relation to the financial administration and stewardship of the authority. This statutory responsibility cannot be overridden. The statutory duties arise from:
- Section 151 of the Local Government Act 1972
  - The Local Government Finance Act 1988
  - The Local Government and Housing Act 1989
  - The Accounts and Audit Regulations 1996 and subsequent amendments
  - The Local Government Act 2003
- A24 The Chief Finance Officer is responsible for:
- the proper administration of the authority's financial affairs
  - monitoring compliance with financial management standards
  - determining the accounting procedures and records for the authority and advising on the key financial controls necessary to secure sound financial management
  - signing and dating the annual statement of accounts, to certify that it presents fairly the financial position of the Council
- A25 The Chief Finance Officer is required to report to the Council, Cabinet and external auditor if the authority or one of its officers:
- has made, or is about to make, a decision which involves incurring unlawful expenditure

- has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the authority
- is about to make an unlawful entry in the authority's accounts

The Chief Finance Officer also has a duty to report to the Council on the robustness of the estimates for the purposes of the budget and the adequacy of reserves.

A26 The Chief Finance Officer is also responsible for:

- setting financial management standards
- advising on the corporate financial position
- providing financial information
- preparing the revenue budget and capital programme
- treasury management
- selecting accounting policies and ensuring that they are applied consistently
- ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice On Local Authority Accounting In The United Kingdom: A Statement Of Recommended Practice (CIPFA/LASAAC).

### **CHIEF OFFICERS**

A27 Chief Officers are responsible for:

- ensuring that Portfolio Holders are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer
- signing contracts on behalf of the authority.

A28 Chief Officers are responsible for agreeing in-year virements within delegated limits, in consultation with the Chief Finance Officer where required. They must notify the Chief Finance Officer of all virements.

A29 It is the responsibility of Chief Officers to consult with the Chief Finance Officer and seek approval on any matter liable to affect the authority's finances materially, before any commitments are incurred.

## **FINANCIAL REGULATION B: FINANCIAL PLANNING AND MANAGEMENT**

### **INTRODUCTION**

B1 The Council is responsible for agreeing the Authority's policy framework and budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:

- the annual revenue budget
- the annual capital programme
- the medium term (four year) revenue and capital financial forecast

These will be produced in conjunction with the annual best value performance plan and with due regard to the Council Plan as set from time to time by Council.

### **BUDGETING**

#### **Budget Format**

B2 The general format of the budget will be approved by the Council and proposed by the Cabinet on the advice of the Chief Finance Officer. The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and housing rent levels, and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

#### **Revenue and Capital Budget Preparation**

B3 The Chief Finance Officer is responsible for ensuring that revenue and capital budgets are prepared together with a medium term (four year) revenue and capital financial forecast on an annual basis, for consideration by the Cabinet, before submission to the Full Council. The budget will be prepared within the framework procedure rules as set out in the Council's Constitution.

B4 The Finance and Performance Management Cabinet Committee on the advice of the Chief Finance Officer, and following proper consultation including the Overview and Scrutiny Committee, is responsible for proposing guidance on the general content of the budget to the Cabinet.

B5 It is the responsibility of Chief Officers to ensure that budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet.

B6 The Cabinet is responsible for developing and maintaining a resource allocation process that ensures due consideration of the Council's policy framework.

B7 It is the responsibility of the Cabinet to ensure that there is proper consultation on the proposed budget prior to its submission to Council. The Council may then amend the budget or ask the Cabinet to reconsider it before approving it.

B8 The inclusion of items in approved revenue and capital estimates shall constitute authority to incur such expenditure, save to the extent to which the Council or the Cabinet shall have placed a reservation on any such item. Expenditure on any such

reserved items may be incurred only when and to the extent that such reservation has been removed.

### **Budget Monitoring and Control**

- B9 It is the duty of every Portfolio Holder to monitor and regulate the financial performance of services for which they are responsible.
- B10 The Chief Finance Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations and report to the Cabinet on the overall position on a regular basis.
- B11 It is the responsibility of Chief Officers to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Chief Finance Officer. They should report on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer to any problems.

### **Emergency and Urgent Expenditure**

- B12 Nothing in these financial regulations will prevent expenditure outside of the budgetary framework in the event of an emergency situation or one of overriding urgency, subject to certain criteria and actions being satisfied.

### **Guidelines**

- B13 Guidelines on budget preparation are issued to Members and Chief Officers by the Cabinet following agreement with the Chief Finance Officer. The guidelines will take account of, amongst other things:

- legal requirements
- medium-term planning prospects
- the Council plan
- available resources
- spending pressures
- best value and other relevant government guidelines
- other internal policy documents
- cross-cutting issues (where relevant)

and any appropriate statutory plans and strategies that form part of the policy framework of the authority such as the:

- Council Plan
- best value performance plan
- asset management plan
- capital strategy
- treasury management policy statement

### **MAINTENANCE OF RESERVES**

- B14 It is the responsibility of the Finance and Performance Management Cabinet Committee, on the advice of the Chief Finance Officer, to propose to the Cabinet and/or the Council prudent levels of reserves for the Authority.

## **FINANCIAL REGULATION C: RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **INTRODUCTION**

- C1 It is essential that the robust, integrated systems in place for risk management are maintained for identifying and evaluating all significant strategic and operational risks to the Council. This should include the proactive participation of all services in the Council's Risk Management Group.

### **RISK MANAGEMENT**

- C2 The Cabinet is responsible for approving the authority's risk management policy statement and strategy and for promoting it throughout the authority. The Cabinet is also responsible for ensuring that proper insurance exists where appropriate.
- C3 The Finance and Performance Management Cabinet Committee is responsible for preparing the Council's risk management policy statement on the advice of the Chief Finance Officer and Chief Officers, and for advising the Cabinet on proper insurance cover where appropriate. The appropriate Portfolio Holder has lead Member responsibility for risk management.
- C4 The Audit and Governance Committee is responsible for reviewing the effectiveness of the arrangements for risk management.

### **INTERNAL CONTROL**

- C5 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- C6 The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- C7 It is the responsibility of Chief Officers to establish sound arrangements for planning, controlling and monitoring their operations in order to achieve continuous improvement and value for money.

### **AUDIT REQUIREMENTS**

- C8 The Accounts and Audit Regulations 2003, as amended, require every local authority to maintain an adequate and effective Internal Audit.
- C9 The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by the Audit Commission Act 1998 and the Local Government Act 1999.
- C10 The authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

## **PREVENTING FRAUD AND CORRUPTION**

- C11 The Chief Finance Officer in liaison with the Chief Internal Auditor is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

## **ASSETS**

- C12 Chief Officers should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

## **STAFFING**

- C13 The Council is responsible for determining how officer support for Executive and non-Executive roles within the authority will be organised.
- C14 The Head of Paid Service is responsible for overall management of staff. He or she is also responsible for ensuring that there is proper use of an evaluation or other agreed system for determining the remuneration of a job.
- C15 Chief Officers are responsible for controlling total staff numbers by:
- advising the Cabinet on the budget necessary in any given year to cover estimated staffing levels
  - adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs
  - the proper use of appointment procedures.

## **FINANCIAL REGULATION D: TREASURY MANAGEMENT AND BANK ARRANGEMENTS**

### **TREASURY MANAGEMENT**

D1 The Council, in adopting these financial regulations, has adopted the key recommendations of CIPFA's Treasury Management in the Public Services: Code of Practice (the Code).

D2 The key recommendations are:

Key Recommendation 1 – the Council shall put in place formal and comprehensive objectives, policies and practices, strategies and reporting arrangements for the effective management and control of its treasury management activities.

Key Recommendation 2 – the Council's policies and practices shall make clear that the effective management and control of risk are prime objectives of its treasury management activities.

Key Recommendation 3 – the Council shall acknowledge that the pursuit of best value in treasury management, and the use of suitable performance measures, are valid and important tools for the Council to employ in support of its business and service objectives; and that within the context of effective risk management, its treasury management policies and practices shall reflect this.

Key Recommendation 4 – in order to achieve the above, the Council shall

- Adopt a treasury management policy statement, as recommended by the Code
- Follow the recommendations in the Code concerning the creation of Treasury Management Practices (TMPs)

D3 The Council shall create and maintain, as the basis for effective treasury management

- A treasury management policy statement, including the policies and objectives of its treasury management activities

Suitable TMPs, setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities

D4 The Relevant Portfolio Holder will report on the Council's treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, and an annual report after its close, in the form prescribed in its TMPs

D5 The Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to the Cabinet, and for the execution and administration of treasury management decisions to the Chief Finance Officer who will act in accordance with the Council's policy statement and TMPs

## **LEASING AND OTHER FINANCIAL FACILITIES**

- D6 The Chief Finance Officer and officers nominated by him or her are the only officers authorised to enter into and sign agreements for leasing and other financial facilities.

## **BANKING ARRANGEMENTS**

- D7 The Chief Finance Officer is the only officer authorised to open, operate and close a bank account on behalf of the Council.
- D8 The Chief Finance Officer and officers nominated by him or her are the only officers authorised to sign cheques and instigate or arrange other methods of payment.

## **FINANCIAL REGULATION E: FINANCIAL SYSTEMS AND PROCEDURES**

### **INTRODUCTION**

- E1 Sound systems and procedures are essential to an effective framework of accountability and control.

### **GENERAL**

- E2 The Chief Finance Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by Chief Officers to the existing financial systems or the establishment of new systems must be approved by the Chief Finance Officer. However, Chief Officers are responsible for the proper operation of financial processes in their own service areas.
- E3 Any changes to agreed procedures by Chief Officers to meet their own specific service needs should be agreed with the Chief Finance Officer.
- E4 Chief Officers should ensure that their staff receive relevant financial training that has been approved by the Chief Finance Officer.
- E5 Chief Officers must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Chief Officers must also ensure that staff are aware of their responsibilities under freedom of information legislation.

### **INCOME AND EXPENDITURE**

- E6 It is the responsibility of Chief Officers to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on the Chief Officer's behalf, or on behalf of the Cabinet, in respect of payments, income collection and placing orders, together with the limits of their authority. The Cabinet is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

### **PAYMENTS TO EMPLOYEES AND MEMBERS**

- E7 The Director of Resources is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to Members.

### **TAXATION**

- E8 The Chief Finance Officer is responsible for advising Chief Officers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council .
- E9 The Chief Finance Officer is responsible for maintaining the authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

## **TRADING ACCOUNTS/BUSINESS UNITS**

- E10 It is the responsibility of the Chief Finance Officer to advise on the establishment and operation of trading accounts.

## **FINANCIAL REGULATION F: EXTERNAL ARRANGEMENTS**

### **INTRODUCTION**

- F1 The Council provides a leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

### **PARTNERSHIPS**

- F2 The Council has approved a framework for partnerships. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- F3 The Cabinet can delegate functions – including those relating to partnerships – to officers. These are set out in the scheme of delegation that forms part of the Council’s Constitution. Where functions are delegated, the Cabinet remains accountable for them to the Council.
- F4 The Head of Paid Service represents the Council on partnership and external bodies, in accordance with the scheme of delegation.
- F5 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the authority. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies.
- F6 The Chief Finance Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- F7 Chief Officers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

### **EXTERNAL FUNDING**

- F8 External Funding is overseen by the External Funding Working Party, in accordance with the External Funding Strategy. This strategy has been approved by Cabinet and all officers are requested to have regard to the strategy when dealing with any external funding issues. The External Funding Strategy and toolkit are available on the intranet.

### **WORK FOR THIRD PARTIES**

- F9 The Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies.

## Financial Governance

### 1. FINANCIAL GOVERNANCE STANDARDS

#### Why is this important?

- 1.1 All officers and Members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

#### Key controls

- 1.2 The key controls and control objectives for financial governance standards are:
- (a) the promotion of good governance throughout the authority;
  - (b) adherence to relevant codes of conduct by members and officers; and
  - (c) a monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards that are reported to the Cabinet and Council.

#### Responsibility of the Head of Paid Service (Chief Executive)

- 1.3 To establish a framework for management direction, style and standards and for monitoring the performance of the organisation.

#### Responsibility of the Monitoring Officer

- 1.4 To promote and maintain high standards of financial conduct.
- 1.5 To advise (together with the Chief Finance Officer) the Cabinet or Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include
- initiating a new policy
  - committing expenditure in future years to above the budget level
  - incurring inter-service transfers above virement limits
  - causing the total expenditure financed from council tax, grants and corporately held reserves to increase, or to increase by more than a specified amount.

#### Responsibilities of the Chief Finance Officer

- 1.6 To set the financial management standards and ensure the proper administration of the financial affairs of the authority.
- 1.7 To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff.

- 1.8 To ensure that financial information is available to enable accurate and timely monitoring.
- 1.9 To complete all grant claims and other financial returns required by government departments and other bodies.
- 1.10 To monitor compliance with financial management standards
- 1.11 To advise on the key financial controls necessary to secure sound financial management.

### **Responsibilities of Chief Officers**

- 1.12 To promote the financial management standards set by the Chief Finance Officer in their services and to monitor adherence to the standards and practices, liaising as necessary with the Chief Finance Officer.
- 1.13 To promote sound financial practices in relation to the standards, performance and development of staff in their services.
- 1.14 To maintain such records as are required to enable the Chief Finance Officer to complete all grant claims and other financial returns required by government departments and other bodies.
- 1.15 To consult the Chief Finance Officer prior to the release of financial information to any external persons or parties except where the data relates directly and solely to systems operated by the Chief Officer concerned and where the release of information is in accordance with the Data Protection Policy.

## **2. ACCOUNTING POLICIES AND ANNUAL STATEMENT OF ACCOUNTS**

### **Why is this important?**

- 2.1 The Chief Finance Officer is responsible for the preparation of the authority's statement of accounts, in accordance with proper practices as set out in the format required by the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (SORP), for each financial year ending 31 March.

### **Key controls**

- 2.2 The key controls for accounting policies are:
  - (a) systems of internal control are in place that ensure that financial transactions are lawful;
  - (b) suitable accounting policies are selected and applied consistently;
  - (c) proper accounting records are maintained; and
  - (d) financial statements are prepared which present fairly the financial position of the authority and its expenditure and income.

### **Responsibilities of the Chief Finance Officer**

- 2.3 To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts, which is prepared at 31 March each year, and covers such items as:
- (a) separate accounts for capital and revenue transactions
  - (b) the basis on which debtors and creditors at year end are included in the accounts
  - (c) details on substantial provisions and reserves
  - (d) fixed assets
  - (e) depreciation
  - (f) work in progress
  - (g) stocks and stores
  - (h) accounting for value added tax
  - (i) government grants
  - (j) leasing
  - (k) pensions
- 2.4 To make judgements and estimates that are reasonable and prudent.
- 2.5 To comply with the SORP.
- 2.6 To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.
- 2.7 To sign and date the statement of accounts, stating that it presents fairly the financial position of the authority at the accounting date and its income and expenditure for the year ended 31 March each year.

### **Responsibilities of Chief Officers**

- 2.8 To comply with accounting guidance provided by the Chief Finance Officer and to supply the Chief Finance Officer with information when required.

## **3. ACCOUNTING RECORDS AND RETURNS**

### **Why is this important?**

- 3.1 Maintaining proper accounting records is one of the ways in which the authority discharges its responsibility for stewardship of public resources. The authority has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit which provides assurance that the accounts are prepared properly and that proper accounting practices have been followed.

### **Key controls**

- 3.2 The key controls for accounting records and returns are:
- (a) all Portfolio Holders, finance staff and spending control officers operate within the required accounting standards and timetables;
  - (b) all the authority's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis;

- (c) business continuity procedures are in place to enable accounting records to be reconstituted in the event of systems failure;
- (d) reconciliation procedures are carried out to ensure transactions are correctly recorded; and
- (e) prime documents are retained in accordance with legislative and other requirements.

### **Responsibilities of the Chief Finance Officer**

- 3.3 To determine the accounting procedures and records for the authority and to arrange for the compilation of all such accounts and accounting records under his or her direction.
- 3.4 To make proper arrangements for the audit of the authority's accounts in accordance with the Accounts and Audit Regulations 2003.
- 3.5 To comply with the following principles when allocating accounting duties:
  - (a) separating the duties of providing information about sums due to or from the authority and calculating, checking and recording these sums from the duty of collecting or disbursing them; and
  - (b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- 3.6 To ensure that all claims for funds including grants are made by the due date.
- 3.7 To prepare and publish the audited accounts of the authority for each financial year, in accordance with the statutory timetable and with the requirement for Council to approve the statement of accounts before 30 June.
- 3.8 To administer the authority's arrangements for under and overspendings to be carried forward to the following financial year.
- 3.9 To ensure the proper retention of financial documents in accordance with the requirements set out in the authority's document retention schedule.

### **Responsibilities of Chief Officers**

- 3.10 To consult and obtain the approval of the Chief Finance Officer before making any changes to accounting records and procedures.
- 3.11 To comply with the principles outlined in paragraph 3.5 when allocating accounting duties.
- 3.12 To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.
- 3.13 To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the Chief Finance Officer.

## Financial Planning and Management

### 1. PERFORMANCE PLANS

#### Why is this important?

- 1.1 Each local authority has a statutory responsibility to publish various performance plans, including the best value performance plan. The purpose of these plans is to explain overall priorities and objectives, current performance, and proposals for further improvement. The authority is required to publish annually the best value performance plan (BVPP), which is a key element in the authority's programme of engaging with the public. External audit is required to report on whether the authority has complied with statutory requirements in respect of the preparation and publication of the BVPP.

#### Key controls

- 1.2 The key controls for performance plans are:
- (a) to ensure that all relevant plans are produced and are consistent;
  - (b) to produce plans in accordance with statutory requirements and timetables;
  - (c) to ensure that all performance information is accurate, complete and up to date; and
  - (d) to provide improvement targets which are meaningful, realistic and challenging.

#### Responsibilities of the Chief Finance Officer

- 1.3 To advise and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.
- 1.4 To contribute to the development of corporate and service targets and objectives and performance information.
- 1.5 To ensure that systems are in place to collect accurate financial information for use with performance indicators.
- 1.6 To ensure that financial performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

#### Responsibilities of Chief Officers

- 1.7 To contribute to the development of performance plans in line with statutory requirements.
- 1.8 To contribute to the development of corporate and service targets and objectives and performance information.
- 1.9 To ensure that systems are in place to measure activity and collect accurate information for use as performance indicators.

- 1.10 To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

## **2. BUDGETING**

### **Format of the Budget**

#### **Why is this important?**

- 2.1 The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.

#### **Key controls**

- 2.2 The key controls for the budget format are:
- (a) the format complies with all legal requirements;
  - (b) the format complies with CIPFA's Best Value Accounting Code of Practice; and
  - (c) the format reflects the accountabilities of service delivery.

#### **Responsibilities of the Chief Finance Officer**

- 2.3 To advise the Cabinet on the format of the budget that is approved by the Full Council.

#### **Responsibilities of Chief Officers**

- 2.4 To comply with accounting guidance provided by the Chief Finance Officer .

### **Budget Monitoring and Control**

#### **Why is this important?**

- 2.5 Budget management ensures that once Council has approved the budget, allocated resources are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the authority to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.
- 2.6 By identifying and explaining variances against budgetary targets, the authority can identify changes in trends and resource requirements. To ensure that the authority in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.
- 2.7 For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required by the Chief Officer's scheme of delegation.

## **Key controls**

- 2.8 The key controls for managing and controlling budgets are:
- (a) spending control officers should be responsible only for income and expenditure that they can influence;
  - (b) there is a nominated spending control officer for each cost centre heading;
  - (c) spending control officers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities;
  - (d) spending control officers follow an approved certification process for all expenditure;
  - (e) income and expenditure are properly recorded and accounted for; and
  - (f) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.

## **Responsibilities of the Chief Finance Officer**

- 2.9 To establish an appropriate framework of budgetary management and control that ensures that:
- (a) budget management is exercised within annual limits unless Council agrees otherwise;
  - (b) each Chief Officer has available timely information on income and expenditure on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
  - (c) expenditure is committed only against an approved budget head with sufficient funds available;
  - (d) all officers responsible for committing expenditure comply with relevant guidance, financial regulations and contract standing orders;
  - (e) each cost centre has a single named spending control officer, determined by the relevant Chief Officer. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure; and
  - (f) significant variances from approved budgets are investigated and reported by spending control officers regularly.
- 2.10 To administer the authority's scheme of virement.
- 2.11 To submit reports to the Cabinet and to Council, in consultation with the relevant Chief Officer, where a Chief Officer is unable to balance expenditure and resources within existing approved budgets under his or her control.
- 2.12 To prepare and submit reports on the authority's projected income and expenditure compared with the budget on a quarterly basis.

## **Responsibilities of Chief Officers**

- 2.13 To maintain budgetary control within their services, in adherence to the principles in 2.9, and to ensure that all income and expenditure is properly recorded and accounted for.
- 2.14 To ensure that an accountable spending control officer is identified for each item of income and expenditure under the control of the Chief Officer. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- 2.15 To ensure that spending remains within the service's overall budget, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- 2.16 To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.
- 2.17 To prepare and submit to the Cabinet reports on the service's projected expenditure compared with its budget, in consultation with the Chief Finance Officer
- 2.18 To ensure compliance with the scheme of virement.
- 2.19 To agree with the relevant Chief Officer where it appears that a virement proposal may impact materially on another service area or Chief Officer's level of service activity.

## **Budget Preparation and Medium-term Planning**

### **Why is this important?**

- 2.20 The authority is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the authority's plans and policies.
- 2.21 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the authority. Budgets are needed so that the authority can plan, authorise, monitor and control the way money is allocated and spent.
- 2.22 Medium-term planning involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the authority is always preparing for events in advance.

### **Key controls**

- 2.23 The key controls for budgets and medium-term planning are:
  - (a) specific budget approval for all expenditure;
  - (b) spending control officers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within

delegations set by the Cabinet for their budgets and the level of service to be delivered; and

- (c) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

### **Responsibilities of the Chief Finance Officer**

- 2.24 To prepare and submit reports on budget prospects to the Finance and Performance Management Cabinet Committee, including resource constraints set by the Government, in accordance with the budget timetable. Reports should take account of medium-term issues, where appropriate.
- 2.25 To determine the detailed form of capital and revenue estimates and the methods for their preparation, consistent with the budget approved by Council, and after consultation with the Cabinet and Chief Officers.
- 2.26 To prepare and submit reports to the Finance and Performance Management Standing Scrutiny Panel on the aggregate spending plans of Portfolio Holders and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax or housing rent levels to be levied.
- 2.27 To advise on the medium-term implications of spending decisions.
- 2.28 To encourage the best use of resources and value for money by working with Chief Officers to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 2.29 To advise Council on the Cabinet's budget proposals in accordance with his or her responsibilities under section 151 of the Local Government Act 1972 and Section 25 of the Local Government Act 2003.

### **Responsibilities of Chief Officers**

- 2.30 To prepare estimates of income and expenditure, in consultation with the Chief Finance Officer, to be submitted to the Cabinet by the appropriate Portfolio Holder, in accordance with the budget timetable.
- 2.31 To prepare budgets that are consistent with guidelines issued by the Cabinet. The format should be prescribed by the Chief Finance Officer in accordance with Council's general directions.
- 2.32 To ensure prior approval by Council for new proposals that:
  - (a) increase the budgetary requirement in current or future years, or
  - (b) change existing policies, initiate new policies or cease existing policies, or
  - (c) materially extend or reduce the authority's services.

A report on new proposals should explain the full financial implications, following consultation with the Chief Finance Officer. Unless Council has agreed otherwise, Chief Officers must plan to contain the financial implications of such proposals within their budget.

Where the proposal is within the existing policy framework, and solely requires an increase in the budgetary requirement, proposals should either be agreed by the Cabinet for bids to be made for a future budget that will subsequently be ratified by Council, or reported to Council if implementation is required for the current budgetary year.

- 2.33 To agree with the relevant Chief Officer where it appears that a budget proposal may impact materially on another service area or Chief Officer's level of service activity.
- 2.34 To integrate financial and budget plans into service planning, so that service plans are fully costed and can be incorporated into medium term budget forecasts.
- 2.35 In consultation with the Chief Finance Officer and in accordance with the guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by the appropriate Portfolio Holder, including proposals for the setting of fees and charges.
- 2.36 When drawing up draft budget requirements, to have regard to:
  - (a) Spending patterns and pressures revealed through the budget monitoring process;
  - (b) Legal requirements;
  - (c) Policy requirements as defined by Council in the approved policy framework; and
  - (d) Initiatives already in progress.

#### **Responsibilities of the Finance and Performance Management Cabinet Committee**

- 2.37 Following due consultation with Overview and Scrutiny Committee or its relevant panels, to submit reports on budget proposals for the Cabinet, and to propose suitable budget guidelines.
- 2.38 Following due consultation with the appropriate Overview and Scrutiny Committee or relevant Panel, to submit reports to the Cabinet on the aggregate spending plans of Portfolio Holders and the resources available to fund them, identifying, where appropriate, the implications for the level of council tax or housing rent levels to be levied.

#### **Responsibilities of Portfolio Holders**

- 2.39 Following due consultation with the appropriate Overview and Scrutiny Committee or relevant Panel, to present to the Cabinet estimates of income and expenditure, including proposals for the setting of fees and charges, relating to their area of responsibility, in such form and by such date(s) as is required for policy-making and budgeting. Such estimates shall comply with legislation, statutory instruments from time to time in force and the policy framework of the Council.

## **Resource Management**

### **Why is this important?**

- 2.40 A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is therefore imperative that needs/desires are carefully prioritised and that resources are utilised to fulfil all legal responsibilities and minimise the level of waste, inefficiency or loss. Resources may include staff, money, equipment, goods and materials.

### **Key controls**

- 2.41 The key controls for resource management are:
- (a) resources are obtained in accordance with the law and using an approved authorisation process;
  - (b) resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for;
  - (c) resources are securely held for use when required; and
  - (d) resources are used with the minimum level of waste, inefficiency or loss for other reasons.

### **Responsibilities of the Chief Finance Officer**

- 2.42 To advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.
- 2.43 To determine the method of allocation of resources to spending control officers.

### **Responsibilities of Chief Officers**

- 2.44 To work within budget limits and to utilise resources allocated in the most efficient, effective and economic way.
- 2.45 To identify opportunities to minimise resource requirements without having a detrimental effect on service delivery.

## **Capital Programme**

### **Why is this important?**

- 2.46 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the authority, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.
- 2.47 Capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

## **Key controls**

- 2.48 The key controls for capital programmes are:
- (a) Sufficient regard being given to the Capital Strategy adopted by Council;
  - (b) Specific approval by Council for the programme of capital expenditure following recommendation by the Cabinet;
  - (c) A scheme and estimate, including project plan, progress targets and associated revenue expenditure is prepared for each capital project, for approval by the relevant Portfolio Holder;
  - (d) Schedules for individual schemes within the overall budget approved by Council must be submitted by the relevant Portfolio Holder to the Cabinet for approval (for example, minor works), or under other arrangements approved by the Council;
  - (e) The development and implementation of asset management plans;
  - (f) Accountability for each proposal is given to a specific postholder; and
  - (g) Monitoring of scheme progress in conjunction with expenditure and comparison with approved budget.

## **Responsibilities of the Chief Finance Officer**

- 2.49 To prepare capital estimates jointly with Chief Officers and the relevant Portfolio Holder, and to report them to the Cabinet for approval. The Cabinet will make recommendations on the capital estimates and on any associated financing requirements to the Council.
- 2.50 To prepare and submit reports to the Cabinet on the projected income, expenditure and resources compared with the approved estimates.
- 2.51 To issue guidance concerning capital schemes and controls. The definition of 'capital' will be determined by the Chief Finance Officer, having regard to government regulations and accounting requirements.

## **Responsibilities of Chief Officers**

- 2.52 To comply with guidance concerning capital schemes and controls issued by the Chief Finance Officer .
- 2.53 To ensure that all capital proposals have undergone a project appraisal.
- 2.54 To ensure that adequate records are maintained for all capital contracts.
- 2.55 To proceed with projects only when there is adequate provision in the capital programme.
- 2.56 To obtain authorisation from the Cabinet for individual schemes where the estimated expenditure exceeds the capital programme provision.

- 2.57 Where the capital project is budgeted to be in excess of £2 million, to prepare and submit reports, jointly with the Chief Finance Officer, to the relevant Portfolio Holder outlining:
- (a) Progress to date;
  - (b) Problems identified and proposals for rectification;
  - (c) Expenditure to date compared to budget; and
  - (d) Decisions required.
- 2.58 In addition to 2.57 above, where the capital project is budgeted to be in excess of £2 million, to establish a multidiscipline project team to:
- (a) Plan, manage and review projects and ensure effective financial management;
  - (b) Monitor expenditure, estimated outturn, variances to budget, potential claims and overspends, levels of contingencies, and implications of deviations from critical paths; and
  - (c) On completion, undertake a post-contract evaluation using appropriate methodology.
- 2.59 To prepare and submit reports, jointly with the Chief Finance Officer to the Cabinet, of any variation in contract costs greater than the approved budget. The Cabinet may meet cost increases of up to £100,000 by virement from savings elsewhere within their capital programme, save that there can be no transfer of approved budgets between the General Fund and the Housing Revenue Account, or between portfolios.
- 2.60 To prepare and submit reports, jointly with the Chief Finance Officer to the Cabinet, on completion of all contracts where the final expenditure exceeds the approved contract sum by more than the lesser of 10% or £25,000.
- 2.61 To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Chief Finance Officer and, if applicable, approval of the scheme through the capital programme.
- 2.62 To consult with the Chief Finance Officer and to seek Cabinet approval where the Chief Officer proposes to bid for specific capital grants to be issued by government departments to support expenditure that has not been included in the current year's capital programme.

### **Emergency and Urgent Expenditure**

- 2.63 Nothing in these financial regulations shall prevent a Portfolio Holder or the Cabinet from incurring expenditure outside of the budgetary framework which is essential to meet any immediate needs created by a sudden emergency, or which is referable to Section 138 of the Local Government Act 1972, or which is outside the Council's control (e.g. by order of the Courts or any body with an equivalent power), or which has some other overriding urgency, subject to:
- (a) It not being practical to convene a quorate meeting of the Council;

- (b) The Chairman of the Overview and Scrutiny Committee, or in his or her absence the Chairman of the Council, or in his or her absence the Vice-Chairman of the Council, agreeing that the expenditure is a matter of urgency; and
- (c) The reasons why it was impractical to convene a quorate meeting of the Council under 2.6 3(a) and the consent under 2.633(b) being noted on the record of the decision

2.64 Following the decision to incur expenditure outside of the budgetary framework on the grounds of urgency, the relevant Portfolio Holder will provide a report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency. The report will also set out the level of expenditure incurred or likely to be incurred under the decision, and proposals for the mitigation of the expenditure by the deferment of other expenditure where possible.

### **3. MAINTENANCE OF RESERVES**

#### **Why is this important?**

3.1 The Council must decide the level of general reserves it wishes to maintain before it can decide the level of council tax. Reserves are maintained as a matter of prudence. They enable the authority to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

#### **Key controls**

- 3.2 To maintain reserves in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC) and agreed accounting policies.
- 3.3 For each reserve established, the purpose, usage and basis of transactions should be clearly identified.
- 3.4 Authorisation and expenditure from reserves by the appropriate Chief Officer in consultation with the Chief Finance Officer.

#### **Responsibilities of the Finance and Performance Management Cabinet Committee**

3.5 To advise the Cabinet and/or the Council on prudent levels of reserves for the authority, and to take account of the advice of the Chief Finance Officer and the external auditor in this matter.

#### **Responsibilities of Chief Officers**

3.6 To ensure that resources are used only for the purposes for which they were intended.

## **4. MANAGING EXPENDITURE**

### **Scheme of Virement**

#### **Why is this important?**

- 4.1 The scheme of virement is intended to enable the Cabinet, Portfolio Holders Chief Officers and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the Council, and therefore to optimise the use of resources.

#### **Key controls**

- 4.2 Key controls for the scheme of virement are:
- (a) it is administered by the Chief Finance Officer within guidelines set by the Council. Any variation from this scheme requires the approval of the Council;
  - (b) the overall budget is agreed by the Cabinet and approved by the Council. Chief Officers and their nominated Spending Control Officers are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement; that is, switching resources within approved estimates within the same cost centre or between costs centres. For the avoidance of doubt, the Chief Finance Officer will maintain a list of approved cost centres budget heading;
  - (c) virement does not create additional overall budget liability. Chief Officers are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Chief Officers must plan ahead to fund such commitments from within their own budgets, so as to avoid the need for supplementary estimates;
  - (d) in exceptional circumstances where a request for a supplementary estimate, i.e. an increase in the overall budgetary requirement of the authority is needed, the approval of Council will be required;
  - (e) virement between budgets of the Housing Revenue Account and the General Fund, and between revenue and capital budgets is prohibited;
  - (f) for the purposes of the virement scheme only, the Housing Portfolio is considered to consist of two budget portfolios (Housing Revenue Account and Housing General Fund);
  - (g) no virement relating to a specific financial year should be made after 31 March in that year; and
  - (h) any reference to a budget percentage threshold for virement refers to the gross budget unless otherwise specified.
- 4.3 Where an approved budget is a lump-sum budget or contingency under the control of the Finance and Performance Management Portfolio Holder, intended for allocation during the year, its allocation will not be treated as a virement, provided that:

- (a) the amount is used in accordance with the purposes for which it has been established; and
- (b) the Cabinet has approved the basis and the terms, including financial limits, on which it will be allocated.

#### **Responsibilities of Chief Officers**

- 4.4. A Chief Officer may exercise virements on budgets under his control for cumulative amounts up to £20,000 between detailed account codes within the budget headings on the same budget page during the year, subject to the agreement of the Chief Finance Officer.
- 4.5. Where a virement is required, the Chief Officer (or other Officer delegated by them) must send a signed written request to Accountancy detailing the amount and detailed cost codes involved.

#### **Responsibilities of Portfolio Holders**

- 4.6. A Portfolio Holder, in consultation with the appropriate Chief Officer, may exercise virements on budgets under their control, within the same cost centre or between cost centres, for cumulative amounts between £20,000 up to the greater of £50,000 or 2% of the gross cost centre expenditure during the year, following notification to the Chief Finance Officer, and subject to the conditions at 4.9 below. These limits are inclusive of amounts vired under 4.4 above, not in addition to.
- 4.7. Cumulative amounts of between £50,000 and £100,000 or 2% of the gross cost expenditure, whichever is the greater, within the same cost centre or between cost centres during the year require the approval of the Cabinet, following a report to the relevant Portfolio Holder in conjunction with the Chief Finance Officer and the Chief Officer. The report must specify the proposed expenditure and the source of funding and must explain the implications in the current and future financial year.

#### **Responsibilities of the Chief Finance Officer**

- 4.8. To prepare jointly with the relevant Chief Officer a report to the Cabinet or Council as appropriate, where revenue virements within the same cost centre, or between cost centres within the same portfolio, in excess of the greater of £25,000 or 2% of gross cost centre expenditure are proposed.

To maintain a list of approved budget headings.

To maintain a register of all approved virements.

To monitor that any allocation of an approved budget that is a lump sum budget or contingency intended for allocation during the year is in accordance with the purposes for which it was established and the Cabinet approved scheme for its release. Where any proposed allocation falls outside of these conditions, the allocation will be deemed to be a virement and treated accordingly.

#### **Responsibilities of Cabinet and Council**

- 4.9. Cumulative virements within a Portfolio greater than £100,000 or 2% of the total portfolio, whichever is the greater, require the approval of the Council, following a

report of the Cabinet in conjunction with the Chief Finance Officer and the relevant Chief Officer(s). The report must specify the cumulative expenditure and sources of funding and must explain the service delivery implications in the current and future financial year.

The Cabinet may vire resources between individual capital projects within the General Fund or the Housing Revenue Account, subject to a report to Council, if the cumulative virement exceeds £100,000 on either fund.

The prior approval of the Cabinet is required for any virement, of whatever amount, where it is proposed to:

- (a) vire between budgets of different accountable Portfolio Holders;
- (b) vire between budgets managed by different Chief Officers; and
- (c) change the level of the Council's manpower.

## **Risk Management and Control of Resources**

### **1. RISK MANAGEMENT**

#### **Why is this important?**

- 1.1 All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and mitigation of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to mitigate these risks effectively.
- 1.2 It is the overall responsibility of the Cabinet through the Finance and Performance Management Cabinet Committee, to approve the authority's risk management strategy, and to promote a culture of risk management awareness throughout the authority.

#### **Key controls**

- 1.3 The key controls for risk management are:
- (a) The maintenance and regular review of the Corporate Risk Register and individual service Risk Registers;
  - (b) A monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls;
  - (c) Managers know that they are responsible for managing relevant risks and are provided with appropriate training;
  - (d) Acceptable levels of risk are determined and insured against where appropriate; and
  - (e) The authority has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

#### **Responsibilities of the Head of Paid Service**

- 1.4 To promote the authority's risk management policy statement.

#### **Responsibilities of the Chief Finance Officer**

- 1.5 To develop risk management controls in conjunction with other Chief Officers.
- 1.6 To chair the Corporate Risk Management group.
- 1.7 To arrange appropriate training for staff and Members.

### **Responsibilities of Chief Officers**

- 1.8 To take responsibility for risk management, within their service having regard to advice from the Chief Finance Officer and other specialist officers (e.g. crime prevention, fire prevention, health and safety).
- 1.9 To ensure that there are regular reviews of risk within their service areas.
- 1.10 To nominate a senior member of staff to represent the service at the Corporate Risk Management Group.
- 1.11 To provide guidance to staff on the application of the principles of risk management in their service.

### **Responsibilities of Individuals**

- 1.12 To conduct their duties having due regard to the principles of risk management, as set out above, and to seek guidance from their Head of Service where necessary.

### **Responsibilities of the Finance and Performance Management Cabinet Committee**

- 1.13 To propose the authority's risk management strategy and policy statement, on the advice of the Head of Paid Service, the Chief Finance Officer and appropriate Chief Officers, for adoption by the Cabinet.
- 1.14 To advise the Cabinet on proper insurance cover on the advice of the Chief Finance Officer.

### **Responsibilities of the Audit and Governance Committee**

- 1.15 To conduct an annual review of the effectiveness of the Council's arrangements for risk management.

## **2. INTERNAL CONTROLS**

### **Why is this important?**

- 2.1 The authority is complex and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives.
- 2.2 The authority has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- 2.3 The authority faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.
- 2.4 The system of internal controls is established in order to provide assurance of:
  - (a) Efficient and effective operations;
  - (b) Reliable financial information and reporting;
  - (c) Compliance with laws and regulations; and
  - (d) Risk management.

## **Key controls**

- 2.5 The key controls and control objectives for internal control systems are:
- (a) Key controls should be reviewed on a regular basis and the authority should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively;
  - (b) Managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities;
  - (c) Financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems; and
  - (d) An effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the Auditing Practices Board's auditing guideline Guidance for Internal Auditors, CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom and with any other statutory obligations and regulations.

## **Responsibilities of the Chief Finance Officer**

- 2.6 To assist the authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

## **Responsibilities of Chief Officers**

- 2.7 To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.
- 2.8 To review existing controls in the light of changes affecting the authority and to establish and implement new controls in line with guidance from the Chief Finance Officer. Chief Officers should also be responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.
- 2.9 To ensure staff have a clear understanding of the consequences of lack of control.
- 2.10 To provide written assurance annually on the effectiveness of the internal controls operating within their service and identify controls in need of improvement.

### **3. AUDIT REQUIREMENTS**

#### **Internal Audit**

##### **Why is this important?**

- 3.1 The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 2003 more specifically require that a “relevant body shall maintain an adequate and effective system of internal audit of their accounting records and control systems”.
- 3.2 Accordingly, internal audit is an independent and objective appraisal function established by the authority for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

##### **Key controls**

- 3.3 The key controls for internal audit are:
- (a) That it is independent in its planning and operation;
  - (b) The Chief Internal Auditor has direct access to the Head of Paid Service, all levels of management and directly to elected members; and
  - (c) The internal auditors comply with the Auditing Practices Board’s guideline Guidance for Internal Auditors, as interpreted by CIPFA’s Code of Practice for Internal Audit in Local Government in the United Kingdom.

##### **Responsibilities of the Head of Paid Service**

- 3.4 To ensure that internal auditors have the authority to:
- (a) Access authority premises at reasonable times;
  - (b) Access all assets, records, documents, correspondence and control systems;
  - (c) Receive any information and explanation considered necessary concerning any matter under consideration;
  - (d) Require any employee of the authority to immediately account for cash, stores or any other authority asset under his or her control;
  - (e) Access records belonging to third parties, such as contractors, when required; and
  - (f) Directly access the Management Board, the Cabinet and the Audit and Governance Committee.

Pursuant to this regulation, the same access rights apply to the Chief Finance Officer in relation to the internal control of the Council.

- 3.5 To approve the strategic and annual audit plans prepared by the Chief Internal Auditor, which take account of the characteristics and relative risks of the activities involved.
- 3.6 To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

#### **Responsibilities of the Chief Internal Auditor**

- 3.7 Whenever appropriate, to consult with the relevant Chief Officer on the timing and nature of audits to avoid unnecessary service disruption.
- 3.8 To consult with the relevant Chief Officer on the findings and recommendations of an audit prior to publication.

#### **Responsibilities of Chief Officers**

- 3.9 To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- 3.10 To ensure that auditors are provided promptly with any information and explanations that they seek in the course of their work.
- 3.11 To consider and respond promptly to recommendations in audit reports.
- 3.12 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- 3.13 To notify the Chief Finance Officer immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources. Pending investigation and reporting, the Chief Officer should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- 3.14 To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Chief Internal Auditor prior to implementation.
- 3.15 To arrange for procedural and operational notes to be issued to all members of staff operating financial systems or procedures.
- 3.16 To ensure that the duty of providing information, calculating, checking and recording sums due to or from the Council shall be separated from the duty of collecting or disbursing those sums.

#### **External Audit**

##### **Why is this important?**

- 3.17 The Local Government Finance Act 1982 set up the Audit Commission, which is responsible for appointing external auditors to each local authority in England and Wales. The external auditor has rights of access to all documents and information necessary for audit purposes.

- 3.18 The basic duties of the external auditor are defined in the Audit Commission Act 1998 and the Local Government Act 1999. In particular, section 4 of the 1998 Act requires the Audit Commission to prepare a code of audit practice, which external auditors follow when carrying out their duties. The code of audit practice issued in April 2005 sets out the auditor's objectives to review and report upon:
- (a) The financial aspects of the audited body's corporate governance arrangements;
  - (b) The audited body's financial statements; and
  - (c) Aspects of the audited body's arrangements to manage its use of resources.
- 3.19 The authority's accounts are scrutinised by external auditors, who must be satisfied that the statement of accounts 'present fairly' the financial position of the authority and its income and expenditure for the year in question and complies with the legal requirements.

### **Key controls**

- 3.20 External auditors are appointed by the Audit Commission normally for a minimum period of five years. The Audit Commission prepares a code of audit practice, which external auditors follow when carrying out their audits.

### **Responsibilities of the Chief Finance Officer**

- 3.21 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work, including records belonging to third parties, such as contractors, when required
- 3.22 To ensure there is effective liaison between external and internal audit.
- 3.23 To work with the external auditor and advise the Council, Cabinet, Audit and Governance Committee and Chief Officers on their responsibilities in relation to external audit.

### **Responsibilities of Chief Officers**

- 3.24 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.
- 3.25 To ensure that all records and systems are up to date and available for inspection.

## **4. PREVENTING FRAUD AND CORRUPTION**

### **Why is this important?**

- 4.1 The authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the authority.
- 4.2 The authority's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

- 4.3 The authority also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the authority with integrity and without thought or actions involving fraud and corruption.

#### **Key controls**

- 4.4 The key controls regarding the prevention of financial irregularities are that:
- (a) The authority has an effective anti-fraud and anti-corruption policy and maintains a culture that will not tolerate fraud or corruption;
  - (b) All Members and staff act with integrity and lead by example;
  - (c) Senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the authority or who are corrupt;
  - (d) High standards of conduct are promoted amongst members by the standards committee;
  - (e) The maintenance of a register of interests in which any hospitality or gifts accepted must be recorded;
  - (f) Whistle blowing procedures are in place and operate effectively;
  - (g) Legislation including the Public Interest Disclosure Act 1998 is adhered to; and
  - (h) Codes of conduct exist to guide both Members and staff.

#### **Responsibilities of the Chief Finance Officer**

- 4.5 To develop and maintain an anti-fraud and anti-corruption policy in liaison with the Chief Internal Auditor;
- 4.6 To maintain adequate and effective internal control arrangements; and
- 4.7 To ensure that all suspected irregularities are reported to the Chief Internal Auditor, the Head of Paid Service, the Audit and Governance Committee and the Cabinet.

#### **Responsibilities of Chief Officers**

- 4.8 To ensure that all suspected irregularities are reported to the Chief Internal Auditor.
- 4.9 To instigate the authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.
- 4.10 To ensure that where financial impropriety is discovered, the Chief Finance Officer is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.
- 4.11 To maintain a departmental register of interests (the Hospitalities Book) in the manner prescribed below.

- 4.12 Each Chief Officer shall maintain a hospitalities book which shall contain details of all hospitalities and gifts offered to any officer, and whether attended or received, which is organised by an external organisation or person who is or could gain financial advantage from dealings with the Council. Such hospitalities and gifts must be acceptable within the codes of conduct adopted by the Council.
- 4.13 Included in the hospitalities book shall be the name of the organiser, the date of the event and details of any gift or gifts in kind, whether offered or received, which have a monetary value (such as accommodation, meals, travel vouchers etc.). Excluded from this regulation are any refreshments received during the course of a business meeting.

## **5. ASSETS**

### **Security**

#### **Why is this important?**

- 5.1 The authority holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

#### **Key controls**

- 5.2 The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:
- (a) Resources are used only for the purposes of the authority and are properly accounted for;
  - (b) Resources are available for use when required;
  - (c) Resources no longer required are disposed of in accordance with the law and the regulations of the authority so as to maximise benefits;
  - (d) An asset register is maintained for the authority, assets are recorded when they are acquired by the authority and this record is updated as changes occur with respect to the location and condition of the asset;
  - (e) All staff are aware of their responsibilities with regard to safeguarding the authority's assets and information, including the requirements of the Data Protection Act as set out in the Council's Data Protection Policy and software copyright legislation; and
  - (f) All staff are aware of their responsibilities with regard to safeguarding the security of the authority's computer systems, including maintaining restricted access to the information held on them and compliance with the authority's computer and Internet security policies.

### **Responsibilities of the Chief Finance Officer**

- 5.3 To ensure that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of £5,000 or any such higher de minimis figure as may be set from time to time for a particular class of asset. The function of the asset register is to provide the authority with information about fixed assets so that they are:
- (a) Safeguarded;
  - (b) Used efficiently and effectively; and
  - (c) Adequately maintained.
- 5.4 To receive the information required for accounting, costing and financial records from each Chief Officer.
- 5.5 To ensure that assets are valued in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC).

### **Responsibilities of Specific Chief Officers**

- 5.6 The Director of Governance shall maintain a record of title deeds owned or in the charge of the Council and arrange for the safe custody thereof and all receipts, disposals, extensions or other alterations shall be recorded promptly.
- 5.7 The Director of Communities shall maintain a property database for dwellings and any other Housing Revenue Account asset, with the exception of commercial and retail properties, and all receipts, disposals, extensions or other alterations shall be recorded promptly.
- 5.8 The Director of Governance shall maintain a property database in a form approved by the Chief Finance Officer for all properties, with the exception of Housing Revenue Account dwellings and other associated residential property, and plant and machinery currently owned or used by the authority and all receipts, disposals, extensions or other alterations shall be recorded promptly. Any use of property by a department or establishment other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use.
- 5.9 The Director of Neighbourhoods shall arrange for the valuation of assets for accounting purposes to meet requirements specified by the Chief Finance Officer.

### **Responsibilities of Chief Officers**

- 5.10 To ensure that lessees and other prospective occupiers of council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Chief Officer in consultation with the Chief Finance Officer and the Director of Neighbourhoods, has been established as appropriate.
- 5.11 To ensure the proper security of all buildings and other assets under their control.
- 5.12 Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a joint report by the Chief Officer, the Chief Finance Officer and the Director of Neighbourhoods.

- 5.13 To notify the Director of Neighbourhoods promptly of all matters arising that shall cause entry to be made in the land and property records.
- 5.14 To pass title deeds to the Director of Governance who is responsible for custody of all title deeds.
- 5.15 To ensure that no Council asset is subject to personal use by an employee without proper authority.
- 5.16 To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the authority.
- 5.17 To ensure that the department maintains a register of moveable assets in accordance with arrangements defined by the Chief Finance Officer.
- 5.18 To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- 5.19 To consult the Chief Finance Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 5.20 To ensure cash holdings on premises are kept to a minimum.
- 5.21 To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Chief Finance Officer as soon as possible.
- 5.22 To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following consultation with the Chief Finance Officer the Cabinet agrees otherwise.
- 5.23 To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the authority in some way.

## **Inventories**

### **Responsibilities of Chief Officers**

- 5.24 To maintain inventories and record an adequate description of IT equipment, furniture, fittings, equipment, tools, plant and machinery above £100 in replacement value used by their service area:
- 5.25 To carry out an annual check of all items on the inventory in order to verify location, review condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Any deficiencies identified must be notified to the Chief Finance Officer promptly, indicating where possible the reasons for such deficiency (e.g. theft, loss). Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the authority.

- 5.26 Each Chief Officer shall be authorised to dispose of the items that are surplus, damaged or obsolete in the best possible terms and in such manner as is deemed appropriate provided that where the estimated realisable value exceeds £500 the Chief Officer shall invite either quotations or tenders as is deemed appropriate. The inventory shall be updated promptly once disposal has occurred. A record of the manner of disposal shall also be maintained and the recipient.
- 5.27 Any such disposal shall exclude IT equipment or any item thought liable to constitute a Health and Safety risk. Any proposal in respect of such equipment should be referred by the Chief Officer concerned to the Chief Internal Auditor. The latter will consult the Chief Finance Officer and the Director of Neighbourhoods as appropriate before granting any exemption to the policy of not disposing of such items. There will also be a presumption against disposal of surplus items to staff unless this is waived by the Chief Internal Auditor after consulting the appropriate Chief Officer.
- 5.28 To make sure that property is only used in the course of the authority's business.

### **Stocks and Stores**

#### **Responsibilities of Chief Officers**

- 5.29 To make arrangements for the care and custody of stocks and stores in the department, in consultation with the Chief Financial Officer.
- 5.30 To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to the satisfaction of the Chief Financial Officer. Certified records of such stocktaking shall be maintained. Each Chief Officer shall certify and forward promptly to the Chief Financial Officer a statement of stockholding as at the 31 March of each year.
- 5.31 To investigate and remove from the authority's records (i.e. write off) discrepancies as necessary, or to obtain Portfolio Holder approval if they are in excess of £2,500.
- 5.32 To authorise for write off and disposal redundant stocks and equipment. Procedures for disposal of such stocks and equipment should, where the estimated value exceeds £2,500, be by competitive quotations or auction, unless, following consultation with the Chief Financial Officer the Portfolio Holder decides otherwise in a particular case. In all cases disposal should ensure that the best price is obtained, bearing in mind other factors, such as environmental issues.
- 5.33 To seek Portfolio Holder approval to the write-off of redundant stocks and equipment in excess of £2,500.

### **Intellectual Property**

#### **Why is this important?**

- 5.34 Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various acts of Parliament cover different types of intellectual property.

- 5.35 Certain activities undertaken within the authority may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

#### **Key controls**

- 5.36 In the event that the authority decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the authority's approved intellectual property procedures.

#### **Responsibilities of the Chief Finance Officer**

- 5.37 To develop and disseminate good practice through the authority's intellectual property procedures.

#### **Responsibilities of Chief Officers**

- 5.38 To ensure that controls are in place to ensure that staff do not carry out private work in council time and that staff are aware of an employer's rights with regard to intellectual property.

#### **Moveable Asset Disposal**

##### **Why is this important?**

- 5.39 It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the authority.

##### **Key controls**

- 5.40 Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the authority, and best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction.
- 5.41 Procedures protect staff involved in the disposal from accusations of personal gain.

#### **Responsibilities of the Chief Finance Officer**

- 5.42 To issue guidelines representing best practice for disposal of assets.
- 5.43 To ensure appropriate accounting entries are made to remove the value of disposed assets from the authority's records and to include the sale proceeds if appropriate.

#### **Responsibilities of Chief Officers**

- 5.44 To seek appropriate advice on the disposal of surplus or obsolete materials, stores or equipment.
- 5.45 To ensure that income received for the disposal of an asset is promptly and properly banked and coded.

## **6. STAFFING**

### **Why is this important?**

- 6.1 In order to provide the highest level of service, it is crucial that the authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

### **Key controls**

- 6.2 The key controls for staffing are:
- (a) An appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched;
  - (b) Procedures are in place for forecasting staffing requirements and cost;
  - (c) Controls are implemented that ensure that staff time is used efficiently and to the benefit of the authority; and
  - (d) Checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

### **Responsibilities of the Head of Paid Service**

- 6.3 To provide overall management to staff.
- 6.4 To ensure that there is proper use of an evaluation or other agreed system for determining the remuneration of a job.

### **Responsibilities of the Chief Finance Officer**

- 6.5 To ensure that budget provision exists for all existing and new employees.
- 6.6 To act as an advisor to Chief Officers on areas such as National Insurance and pension contributions, as appropriate.

### **Responsibilities of Chief Officers**

- 6.7 To produce an annual staffing budget consistent with the approved staff establishment.
- 6.8 To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).
- 6.9 To monitor staff activity to ensure adequate control over such issues as sickness, overtime, training and temporary staff.
- 6.10 To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.
- 6.11 To ensure that the Chief Finance Officer is immediately informed if the staffing budget is likely to be materially over or underspent.

## **7. LOST PROPERTY**

- 7.1 A register shall be maintained by each Chief Officer of lost property handed in or reported lost within premises for which they are responsible.

- 7.2 In accordance with the Local Government (Miscellaneous Provisions) Act 1982 Section 41 the Chief Officer concerned shall give not less than one month's notice to the owner to collect the property.
- 7.3 When any items of money or valuables are involved the Chief Officer concerned should seek advice from the Chief Finance Officer.

## **Treasury Management and Bank Arrangements**

### **1. TREASURY MANAGEMENT**

#### **Why is this important?**

- 1.1 Many millions of pounds pass through the authority's books each year. This led to the establishment of codes of practice. These aim to provide assurances that the authority's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the authority's capital sum.

#### **Key controls**

- 1.2 That the authority's borrowings and investments comply with the CIPFA Code of Practice on Treasury Management and with the authority's treasury policy statement.
- 1.3 All monies held by the Council shall be under the control of the Chief Finance Officer who shall aggregate them for the purposes of Treasury Management.
- 1.4 All investments of money shall be made in the name of the Council and securities held in the custody of the Chief Finance Officer.

#### **Responsibilities of the Chief Finance Officer**

- 1.5 To arrange the borrowing and investments of the authority in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the authority's treasury management policy statement.
- 1.6 To advise the relevant Portfolio Holder on the Treasury Management Policy Statement to be proposed to the Cabinet for adoption by Council.
- 1.7 To advise the relevant Portfolio Holder on suitable Treasury Management Practices to be proposed to the Cabinet for adoption.
- 1.8 To report annually on treasury management activities undertaken and results achieved to Cabinet.
- 1.9 To ensure that all investments of money are made in the name of the authority or in the name of nominees approved by the Full Council.
- 1.10 To ensure that all securities that are the property of the authority or its nominees and the title deeds of all property in the authority's ownership are held in the custody of the appropriate Chief Officer.
- 1.11 To effect all borrowings in the name of the authority and in accordance with the borrowing determinations approved by Council from time to time.
- 1.12 To act as the authority's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the authority.

#### **Responsibilities of Chief Officers**

- 1.13 To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of Council, following consultation with the Chief Finance Officer.

#### **Responsibilities of the Relevant Portfolio Holder**

- 1.14 To propose to the Cabinet, on the advice of the Chief Finance Officer, the Treasury Management Policy Statement for adoption by Full Council.
- 1.15 To propose to the Cabinet for adoption, on the advice of the Chief Finance Officer, suitable Treasury Management Practices.
- 1.16 To propose to the Cabinet, on the advice of the Chief Finance Officer, the annual borrowing determinations under Section 45 of the Local Government and Housing Act 1989, before the commencement of each forthcoming financial year and at any such subsequent time during the financial year as is required, for adoption by Council. The Council must determine an overall borrowing limit for the year. In addition they must also determine a short term borrowing limit, and a limit on the proportion of the total amount of interest payable by the authority that is at a rate or rates that can be varied. The Council must make these determinations, and although they may subsequently be varied at any time, the Council must likewise determine variations.
- 1.17 To report annually to the Cabinet, on the advice of the Chief Finance Officer, about the treasury management strategy and plan to be adopted for the forthcoming financial year

## **2. LEASING AND OTHER FINANCIAL FACILITIES**

### **Key Controls**

- 2.1 The Chief Finance Officer is the only officer authorised to enter into an agreement for leasing and other financial facilities.

### **Responsibilities of the Chief Finance Officer**

- 2.2 To evaluate and arrange all leasing and other financial facilities, excluding the short term hiring of equipment for periods of less than one year.

### **Responsibilities of Chief Officers**

- 2.3 To consult the Chief Finance Officer about all proposals for the use of leasing and other financial facilities other than the short term hiring of equipment for periods of less than one year.
- 2.4 The Director of Governance shall organise and administer all facilities relating to staff car leasing arrangements subject to 2.2 above and to the certification of individual leases by the Chief Finance Officer.

### **3. BANK ACCOUNTS AND CHEQUE SECURITY**

#### **Key Controls**

- 3.1 The key controls for bank accounts and cheque security are:
- (a) The Chief Finance Officer is the only officer authorised to open, operate and close a bank account; and
  - (b) The Chief Finance Officer and officers nominated by him are the only officers authorised to sign cheques and instigate or arrange other methods of payment.

#### **Responsibilities of the Chief Finance Officer**

- 3.2 To make arrangements for the opening, operation and closing of Bank, Building Society, Post Office, Giro Accounts and other appropriate accounts in respect of Council monies.
- 3.3 To make arrangements for the ordering, safe custody and issue of all cheque forms. All cheques issued shall be crossed "Account Payee" unless otherwise agreed by the Chief Finance Officer. The Chief Finance Officer shall also maintain adequate and effective systems for the receipt and control of returned cheques.
- 3.4 To make suitable arrangements for the machine signing of all computer generated cheques.
- 3.5 To nominate officers responsible for the hand countersigning of any cheque over £10,000, and all cheques drawn manually.
- 3.6 The Chief Finance Officer, or the officers nominated by him, shall certify alterations to cheques. Alterations to cheques shall, subject to the discretion of the Chief Finance Officer, be limited to the correction of the date and to the correction of a misspelling of the name of the payee.

#### **Responsibilities of Chief Officers**

- 3.7 To follow the instructions on banking issued by the Chief Finance Officer.

### **4. TRUST FUNDS AND UNOFFICIAL FUNDS**

#### **Responsibilities of Chief Officers**

- 4.1 To arrange for all trust funds to be held, wherever possible, in the name of the authority. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Chief Finance Officer, unless the deed otherwise provides.
- 4.2 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.
- 4.3 To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Chief Finance Officer, and to maintain written records of all transactions.

- 4.4 Unofficial funds (for example contributions towards the Chairman's Charity) shall be accounted for and kept separately from all Council monies.
- 4.5 Bank accounts for unofficial funds shall be operated through the Chief Finance Officer.
- 4.6 Receipts shall be issued for all sums collected for any unofficial fund except where deemed unnecessary after consultation with the Chief Finance Officer.
- 4.7 The Chief Finance Officer may consult with any Chief Officer on the form of records and the arrangements for the preparation of accounts for any unofficial fund and may carry out an audit thereon.
- 4.8 The Chief Finance Officer shall be consulted where there is doubt about the utilisation or operation of any unofficial fund.

## Financial Systems and Procedures

### 1. GENERAL

#### Why is this important?

- 1.1 Service areas have many systems and procedures relating to the control of the authority's assets, including purchasing, costing and management systems. Service areas are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.
- 1.2 The Chief Finance Officer has a professional responsibility to ensure that the authority's financial systems are sound and should therefore be notified of any new developments or changes.

#### Key controls

- 1.3 The key controls for systems and procedures are:
- (a) Basic data exists to enable the authority's objectives, targets, budgets and plans to be formulated;
  - (b) Performance is communicated to the appropriate managers on an accurate, complete and timely basis;
  - (c) Early warning is provided of deviations from target, plans and budgets that require management attention; and
  - (d) Operating systems and procedures are secure.

#### Responsibilities of the Chief Finance Officer

- 1.4 To make arrangements for the proper administration of the authority's financial affairs, including to:
- (a) Issue advice, guidance and procedures for officers and others acting on the authority's behalf;
  - (b) Determine the accounting systems, form of accounts and supporting financial records;
  - (c) Establish arrangements for audit of the authority's financial affairs;
  - (d) Approve any new financial systems to be introduced;
  - (e) Approve any changes to be made to existing financial systems; and
  - (f) Issue the Data Protection Policy and related guidance notes.

## **Responsibilities of Chief Officers**

- 1.5 To ensure that accounting records are properly maintained and held securely.
- 1.6 To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Chief Finance Officer.
- 1.7 To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- 1.8 To incorporate appropriate controls to ensure that, where relevant:
  - (a) All input is genuine, complete, accurate, timely and not previously processed;
  - (b) All processing is carried out in an accurate, complete and timely manner; and
  - (c) Output from the system is complete, accurate and timely.
- 1.9 To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- 1.10 To ensure there is a documented and tested business continuity plan to allow information system processing to resume quickly in the event of an interruption.
- 1.11 To ensure that systems are documented and staff trained in operations.
- 1.12 To consult with the Chief Finance Officer before changing any existing system or introducing new systems.
- 1.13 To establish a scheme of delegation identifying officers authorised to act upon the Chief Officer's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- 1.14 To supply lists of authorised officers, with specimen signatures and delegated limits, to the Chief Finance Officer, together with any subsequent variations.
- 1.15 To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- 1.16 To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation and the Data Protection Policy issued by the Director of Governance.
- 1.17 To ensure that relevant standards and guidelines for computer systems issued by the Chief Finance Officer are observed.
- 1.18 To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.

- 1.19 To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
- (a) Only software legally acquired and installed by the authority is used on its computers;
  - (b) Staff are aware of legislative provisions; and
  - (c) In developing systems, due regard is given to the issue of intellectual property rights.

## **2. INCOME**

### **Why is this important?**

- 2.1 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked promptly and properly. It is preferable to obtain income in advance of supplying goods or services as this improves the authority's cash flow and also avoids the time and cost of administering debts.

### **Key controls**

- 2.2 The key controls for income are:
- (a) All income due to the authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed;
  - (b) All income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery;
  - (c) The method(s) of payment for all systems is determined in conjunction with the Chief Finance Officer;
  - (d) All money received by an employee on behalf of the authority is paid without delay to the Chief Finance Officer or if so directed, to the authority's bank or National Giro account, and properly recorded. The responsibility for cash collection should be separated from that for:
    - identifying the amount due
    - reconciling the amount due to the amount received
  - (e) Effective action is taken to pursue non-payment within defined timescales;
  - (f) Formal approval for debt write-off is obtained;
  - (g) Appropriate write-off action is taken within defined timescales;
  - (h) Appropriate accounting adjustments are made following write-off action;
  - (i) All appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule; and
  - (j) A person who is not involved in the collection or banking process reconciles money collected and deposited to the bank account.

## **Responsibilities of the Chief Finance Officer**

### **General**

- 2.3 To order and supply to service areas all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.

### **Billing**

- 2.4 To approve all debts to be written off in consultation with the relevant Chief Officer and the Director of Governance and to keep a record of all sums written off up to the approved limit and to adhere to the requirements of the Accounts and Audit Regulations 2003.
- 2.5 To agree the write-off of bad debts up to the approved limit of £2,500 in each case and to refer larger sums to the Portfolio Holder.
- 2.6 To obtain the approval of the Portfolio Holder in consultation with the relevant Chief Officer for writing off debts in excess of the approved limit.
- 2.7 To ensure that appropriate accounting adjustments are made following write-off action.

### **Income Collection**

- 2.8 To agree arrangements for the collection of all income due to the authority and to approve the procedures, systems and documentation for its collection.

### **Banking**

- 2.9 To arrange facilities for the banking and/or collection by a security courier of income as is deemed necessary. Money deposited and collected must be reconciled to the bank account on a regular basis.

### **Responsibility of the Director of Communities**

- 2.10 To agree in consultation with the Director of Resources the write-off of rent arrears and credits of former tenants up to the approved limit of £2,500 in each case and to refer larger sums to the Portfolio Holder.

### **Responsibilities of Chief Officers**

- 2.11 To establish a charging policy for the supply of goods or services in consultation with the Chief Finance Officer, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.
- 2.12 To ensure that only Council employees, or where appropriate agents working to a formal contract, are authorised to bill, collect, bank or otherwise handle council monies, unless prior agreement is obtained from the Chief Finance Officer. Each authorised officer or agent shall use such systems, make such returns and keep such records as the Chief Finance Officer requires or approves.

- 2.13 To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.

### **Billing**

- 2.14 To render accounts for any sums due as soon as possible.
- 2.15 To notify the Chief Finance Officer promptly of all monies due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of monies by the Council.
- 2.16 To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly. In circumstances in which legal action for recovery is necessary the matter shall be referred to the Director of Governance for appropriate action. Chief Officers have a responsibility to assist the Chief Financial Officer and the Director of Resources in collecting debts that they have originated, by providing promptly any evidence required for the recovery process to proceed. Chief Officers similarly should not unreasonably withhold any further information requested by the debtor.
- 2.17 To recommend to the Chief Finance Officer all debts to be written off and to keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. An adjustment to a debt can only be made to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- 2.18 To notify the Chief Finance Officer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Chief Finance Officer.
- 2.19 To keep a record of every transfer of money between employees of the authority and/or any security courier. The receiving officer must sign for the transfer and the transferor must retain a copy.

### **Income Collection**

- 2.20 To issue official receipts or to maintain other documentation for all income collection. In no circumstances must any form of receipt be used which has not been approved by the Chief Finance Officer.
- 2.21 To ensure that at least two employees are present when post is opened so that money received by post is properly identified, recorded and banked. The form of these systems is to be agreed with the Chief Finance Officer.
- 2.22 To ensure that no unsolicited business cheques are accepted for personal debts.
- 2.23 To ensure that cheques are not accepted for casual income without a valid bankers/building society cheque guarantee card.
- 2.24 To hold securely receipts, tickets and other records of income for the appropriate period.
- 2.25 To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling. Only up to approved levels of cash can be held on the premises.

- 2.26 To ensure income is not used to cash personal cheques or make any other payments. Cheques drawn by the Council for the reimbursement of petty cash endorsed by the recipient are not covered by this regulation and may be encashed from monies collected.
- 2.27 To ensure the separation of all monies collected from the collecting officer's personal monies and from other official funds.

### **Banking**

- 2.28 To ensure that each authorised officer or agent who prepares money for banking to the credit of the Council's account shall enter on the paying-in slip and on the duplicate(s) thereof, particulars of such payments including, in the case of each cheque paid in, the amount of the cheque and suitable reference to identify the payee and the account for which the cheque was rendered. The name of the receiving establishment shall be recorded on the back of each cheque received.
- 2.29 Unless otherwise authorised by the Chief Finance Officer, collecting officers or agents shall bank, pass to an authorised security courier or pay over to the Chief Finance Officer each weekday, all monies collected to the time of banking, collection or payment over.

## **3. EXPENDITURE**

### **Ordering and Paying for Work, Goods and Services**

#### **Why is this important?**

- 3.1 Public money should be spent with demonstrable probity and in accordance with the authority's policies. Authorities have a statutory duty to achieve best value. The authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the authority's contract standing orders and its procurement strategy.

#### **General**

- 3.2 Every officer and Member of the authority has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the authority, in accordance with appropriate codes of conduct.
- 3.3 Official orders must be in a form approved by the Chief Finance Officer. Official orders must be issued for all work, goods or services to be supplied to the authority, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Chief Finance Officer. Where due to an emergency situation goods are supplied or works are executed without the authority of an official order, a confirmatory order shall be issued no later than two working days after the verbal order.
- 3.4 Where items of similar work require to be undertaken, similar goods to be purchased or similar services to be provided, individual elements may not be placed by the issue of orders without consideration of the total sum with reference to Contract Standing Orders.

- 3.5 Apart from petty cash, the normal method of payment from the authority shall be by BACS transfer or other instrument or approved method, drawn on the authority's bank account or by the Chief Finance Officer. The use of direct debit shall require the prior agreement of the Chief Finance Officer.
- 3.6 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of authority contracts.

### **Key controls**

- 3.7 The key controls for ordering and paying for work, goods and services are:
- (a) All goods and services are ordered only by appropriate persons and are correctly recorded;
  - (b) All goods and services shall be ordered in accordance with the authority's contract standing orders using the Marketplace system;
  - (c) Except in the case of emergency or extreme urgency, orders will only be made where there is sufficient uncommitted budgetary provision to fund the proposed purchase;
  - (d) Goods and services received are checked to ensure they are in accordance with the order. Goods should not be received by the person who placed the order;
  - (e) Payments are not made unless goods have been received by the authority to the correct price, quantity and quality standards;
  - (f) All payments are made to the correct person, for the correct amount and are properly recorded;
  - (g) All appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule; and
  - (h) All expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected

### **Responsibilities of the Chief Finance Officer**

- 3.8 To approve the form of official orders and associated terms and conditions.
- 3.9 To make payments from the authority's funds on the Chief Officer's authorisation that the expenditure has been duly incurred in accordance with financial regulations.
- 3.10 To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- 3.11 To make payments to contractors on the certificate of the appropriate Chief Officer, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.

- 3.12 To provide advice and encouragement on making payments by the most economical means.
- 3.13 To ensure that all the authority's financial systems and procedures are sound and properly administered.
- 3.14 To approve any changes to existing financial systems and to approve any new financial systems before they are introduced.

#### **Responsibilities of Chief Officers**

- 3.15 To ensure that all expenditure incurred and committed is in accordance with the Council's standing orders and these financial regulations.
- 3.16 To ensure that official orders as approved by the Chief Finance Officer are used for all goods and services, other than the exceptions specified in 3.3.
- 3.17 To ensure that orders are only used for goods and services provided to the directorate. All orders raised must contain adequate details of the goods and services to be supplied and the best possible estimate of the cost. Individuals must not use official orders to obtain goods or services for their private use.
- 3.18 To ensure that the department maintains and reviews periodically a list of staff approved to authorise orders and/or invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Chief Finance Officer.
- 3.19 To ensure that only those staff designated by him or her authorise orders. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Best value principles should underpin the authority's approach to procurement. Value for money should always be achieved; in a demonstrable way.
- 3.20 To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. A different officer from the person who authorised the order should where possible, carry out this check. Appropriate entries should then be made in inventories or stores records.
- 3.21 To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:
  - (a) Receipt of goods or services;
  - (b) That the invoice has not previously been paid;
  - (c) That the invoice has been prepared by the supplier and not by any employee of the Council;
  - (d) That expenditure has been properly incurred and is within budget provision;
  - (e) That prices are arithmetically correct and accord with quotations, tenders, contracts or catalogue prices;

- (f) Correct accounting treatment of tax;
  - (g) That the invoice is correctly coded;
  - (h) That discounts have been taken where available; and
  - (i) That appropriate entries will be made in accounting records.
- 3.22 To ensure that invoices are passed for payment to the Chief Finance Officer in a timely fashion and in any case in sufficient time to enable any discounts or other rebates to be obtained.
- 3.23 To ensure that at least two authorised members of staff are involved in the ordering, receiving and payment process. A different officer from the person who authorised the order shall certify the invoice for payment, ideally the receipt of the goods should also be confirmed by a different officer.
- 3.24 To ensure that payments are not made on a faxed invoice, statement or other document other than the formal invoice. Formal invoices may include e-invoices received in PDF format via the dedicated e-mail address provided by the Chief Finance Officer in the Resources Directorate;
- 3.25 To ensure that payment is authorised only by an invoice in which details are recorded in ink, type or other acceptable permanent method. All amendments to original invoices shall be made in ink and the reason for alteration, if not otherwise clear, briefly stated on the account. The authorising officer shall sign all such amendments. Invoices containing correction fluid (such as Tippex) will not be accepted.
- 3.26 For payments, other than for goods, services and work, for which an invoice is not available (for instance the payment of grant aid) an expenditure voucher form shall be duly completed and certified and dealt with as an invoice under these regulations.
- 3.27 To encourage suppliers of goods and services to receive payment by the most economical means for the authority. It is essential, however, that payments made by direct debit have the prior approval of the Chief Finance Officer.
- 3.28 To ensure that the service obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the procurement strategy
- 3.29 To ensure that employees are aware of the local staff code of conduct.
- 3.30 To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Chief Finance Officer. This is because of the potential impact on the authority's borrowing powers, to protect the authority against entering into unapproved credit arrangements and to ensure that value for money is being obtained.
- 3.31 To notify the Chief Finance Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Chief Finance Officer and, in any case, not later than 30 April.

- 3.32 To arrange for any invoice or request for payment that falls within the purview of the “Construction Industry Scheme” (CIS) to be duly stamped in red with “Within Construction Industry”. Each Chief Officer shall maintain a register of CIS exemption certificates showing expiry dates and ensure any supplier within the purview of the scheme has an up to date certificate. No supplier within the construction industry that is unregistered shall be used. Copies of any new exemption certificates shall be forwarded to the Chief Finance Officer.
- 3.33 To notify the Chief Finance Officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- 3.34 To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention schedule.

### **Contract Payments**

- 3.35 Contracts within the scope of this section are defined as those that require completion of formal contract documentation by the Director of Resources to enable compliance with Contract Standing Orders. This section should be read in conjunction with those Standing Orders. This includes work under a schedule of rates and those instances where individual items of work or services placed by orders require a formal contract for the totality of the services or works.

### **Responsibilities of the Chief Finance Officer**

- 3.36 To keep a register of contracts and enter therein particulars of all contracts entered into by the Council and of payments made under such contracts.
- 3.37 To comment on the financial viability of the potential contractor and recommend if appropriate contract and/or annual limits, unless otherwise determined by some other method adopted by the Council.
- 3.38 To issue appropriate guidelines concerning the calculation of bonds and liquidated damages.

### **Responsibilities of Chief Officers**

- 3.39 Before compiling a select list or otherwise entering into a contract, each Chief Officer shall ensure that the Chief Finance Officer has sufficient opportunity to comment on the financial viability of the potential contractor concerned unless this has already been determined in accordance with 3.37 above.
- 3.40 To adhere to any guidelines issued by the Chief Finance Officer concerning the calculation of bonds and liquidated damages.
- 3.41 To inform the Chief Finance Officer forthwith, and in any case before the first payment of monies becomes due, of every contract entered into.
- 3.42 To ensure that all interim certificates issued under contract conditions by the Chief Officer or consultant named in the contract are verified by adequate and accurate valuations of work executed to the certificate date. Interim certificates shall be issued for all contracts entered into and shall show the total amount of the contract, the value of work executed to date, retention money, amount paid to date, amount now certified due and any tax levied. Interim certificates shall be authorised by the client Chief Officer for the project or the authorised spending control officer.

- 3.43 To ensure that, on completion of the contract and before final payment (including the issue of the Certificate for final payment where appropriate) the responsible officer complies with the following Contract Standing Orders:

completion of a Final Account Certificate and supply of a copy to the Chief Internal Auditor;

for contracts if more than £500,000 in value, submission to the Chief Internal Auditor of all details of the contract at the time of practical completion.

The Chief Internal Auditor shall have the right to examine all accounts, vouchers and documents before final payments are made. The Chief Internal Auditor shall be entitled to such further information and explanations as may be required. Nothing under this regulation shall remove or modify the responsibility of the officer or consultant designated in the contract or other responsible officer concerned.

- 3.44 Claims received from contractors in respect of matters not clearly within the terms of the appropriate contract shall before agreement is reached be referred to the Director of Resources for consideration of legal liability and to the Chief Internal Auditor for financial consideration.

#### **4. PETTY CASH ACCOUNTS AND CASH FLOATS**

##### **Why is this important?**

- 4.1 There are numerous petty cash accounts and cash floats used throughout the Council that facilitate the smooth operation of services and enable the local collection of cash. These accounts and floats must have proper controls to prevent loss.

##### **Key Controls**

- 4.2 The Key controls for petty cash accounts and cash floats are:
- (a) Defined procedures are in place for the operation and reconciliation of petty cash accounts and cash floats;
  - (b) Only designated employees will hold and operate petty cash accounts; and
  - (c) Cash floats are only provided to designated cash collection points.

##### **Responsibilities of the Chief Finance Officer**

- 4.3 To issue defined procedures for the operation and reconciliation of petty cash accounts and cash floats.
- 4.4 To provide designated employees of the authority with petty cash accounts to meet minor expenditure on behalf of the authority and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed the prescribed amount.
- 4.5 To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.

- 4.6 To reimburse petty cash account holders as often as necessary to restore the account, but normally not more than monthly.
- 4.7 To provide cash floats to designated cash collection points.

#### **Responsibilities of Chief Officers**

- 4.8 To designate the employees within their service who will hold and operate each petty cash account and cash float.
- 4.9 Follow the defined procedures for the operation of petty cash accounts and cash floats as issued by the Chief Finance Officer.
- 4.10 To ensure that designated employees operating a petty cash account:
- (a) Obtain and retain vouchers to support each payment from the petty cash account. Where appropriate, an official receipted VAT invoice must be obtained;
  - (b) Make adequate arrangements for the safe custody of the account;
  - (c) Produce upon demand by the Chief Finance Officer cash and all vouchers to the total value of the petty cash amount;
  - (d) Record transactions promptly;
  - (e) Reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the petty cash account holder;
  - (f) Provide the Chief Finance Officer with a certificate of the value of the account held at 31 March each year;
  - (g) Ensure that the petty cash account is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the account and change relating to purchases where an advance has been made; and
  - (h) On leaving the authority's employment or otherwise ceasing to be entitled to hold a petty cash account, an employee shall account to the Chief Finance Officer for the amount advanced to him or her.

## **5. PAYMENTS TO EMPLOYEES AND MEMBERS**

### **Why is this important?**

- 5.1 Staff costs are the largest item of expenditure for most authority services. It is therefore important that payments are accurate, timely, made only where they are due for services to the authority and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are authorised in accordance with the scheme adopted by the Council.

### **Key controls**

- 5.2 The key controls for payments to employees and Members are:

- (a) Proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to starters, leavers, variations and enhancements and that where appropriate payments are made on the basis of timesheets or claims;
  - (b) Frequent reconciliation of payroll expenditure against approved budget and bank account;
  - (c) All appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule; and
  - (d) That the regulations of Her Majesty's Revenue and Customs are complied with.
- 5.3 Officers shall comply with any instructions regarding claims specifically provided from the Head of Paid Service and/or the Director of Resources and may be asked to provide information or evidence to substantiate compliance. This information may relate to the vehicle used for travel and which may include an independent reading of the odometer.

#### **Responsibilities of the Director of Resources**

- 5.4 To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.
- 5.5 To record and make arrangements for the accurate and timely payment of tax, pension and other deductions.
- 5.6 To make arrangements for payment of all travel and subsistence claims or financial loss allowance.
- 5.7 To make arrangements for paying Members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- 5.8 To provide advice and encouragement to secure payment of salaries and wages by the most economical means.
- 5.9 To ensure that there are adequate arrangements for administering pension matters on a day-to-day basis.

#### **Responsibilities of the Chief Finance Officer**

- 5.10 To act as the Council's Specified Person for the purposes of the Internal Dispute Resolution Procedure.

#### **Responsibilities of Chief Officers**

- 5.11 To ensure appointments are made in accordance with the regulations of the authority and approved establishments, grades and scale of pay and that adequate budget provision is available.
- 5.12 To notify the Director of Resources promptly, in the form and to the timescale required by him or her, of:

- (a) All appointments, resignations, dismissals and suspensions;
  - (b) Absences from duty for sickness or any other reason;
  - (c) Changes in remuneration other than normal increments and pay awards and agreements of general application; and
  - (d) Information necessary to maintain records of services and benefits for Income Tax, National Insurance, etc. which may affect the pay or pension of a Member, an employee or a former employee.
- 5.13 To ensure that adequate and effective systems and procedures are operated, so that:
- (a) Payments are only authorised to bona fide employees;
  - (b) Payments are only made where there is a valid entitlement;
  - (c) Conditions and contracts of employment are correctly applied; and
  - (d) Employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- 5.14 In the case of employees whose work activity, hours and / or rates may be variable, to prepare a timesheet in a form determined by the Director Resources, showing such information as he or she may require. The employee shall make out timesheets personally with any alterations personally initialled. Timesheets shall be submitted monthly to the Director of Resources in accordance with the timetable set by him or her.
- 5.15 To send an up-to-date list of the names of officers authorised to sign records, timesheets and claims to the Director of Resources, together with specimen signatures.
- 5.16 To ensure that payroll transactions are processed only through the payroll system. Chief Officers should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. The Inland Revenue applies a tight definition for employee status, and in all cases, advice should be sought from the Director of Resources.
- 5.17 To certify travel and subsistence claims and other allowances and expenses. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the authority, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Director of Resources is informed where appropriate. All claims shall be signed by the employee who has incurred the expenditure and shall be certified as correct by the Chief Officer or authorised representative who (with the sole exception of the Head of Paid Service) shall be the line manager of (or if the line manager is unavailable shall at least be senior in grade to) the claimant. Claim forms shall be submitted monthly to the Director of Resources in accordance with the timetable set by him or her.
- 5.18 To ensure that the Director of Resources is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.

- 5.19 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

### **Responsibilities of Members**

- 5.20 To submit claims for Members' travel and subsistence allowances on a quarterly basis and, in any event, within one month of the year-end to the Assistant to the Chief Executive for examination, who shall then pass them to the Director of Resources. The Director of Resources is the only officer authorised to make payments to Members of the Council.

## **6. TAXATION**

### **Why is this important?**

- 6.1 Like all organisations, the authority is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

### **Key controls**

- 6.2 The key controls for taxation are:
- (a) Budget managers are provided with relevant information and kept up to date on tax issues;
  - (b) Budget managers are instructed on required record keeping;
  - (c) All taxable transactions are identified, properly carried out and accounted for within stipulated timescales;
  - (d) Records are maintained in accordance with instructions; and
  - (e) Returns are made to the appropriate authorities within the stipulated timescale.

### **Responsibilities of the Chief Finance Officer**

- 6.3 To complete all HMRC returns regarding PAYE.
- 6.4 To complete a monthly return of VAT inputs and outputs to HMRC.
- 6.5 To provide details to HMRC regarding the construction industry tax deduction scheme.
- 6.6 To maintain up-to-date guidance for authority employees on taxation issues.

### **Responsibilities of Chief Officers**

- 6.7 To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HMRC regulations.

- 6.8 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- 6.9 To ensure that all persons employed by the authority are added to the authority's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- 6.10 To follow the guidance on taxation issued by the Chief Finance Officer.

## **7. TRADING ACCOUNTS**

### **Why is this important?**

- 7.1 Trading accounts have become more important as local authorities have developed a more commercial culture. Under best value, authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost. They are also required to disclose the results of significant trading operations in the BVPP.

### **Responsibilities of the Chief Finance Officer**

- 7.2 To advise on the establishment and operation of trading accounts.

### **Responsibilities of Chief Officers**

- 7.3 To observe all statutory requirements in relation to trading, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts.
- 7.4 To ensure that the same accounting principles, standing orders and financial regulations are applied in relation to trading accounts as for other services or business units.
- 7.5 To ensure that each business unit prepares an annual business plan.

## **8. CONTROLLED STATIONERY**

- 8.1 All controlled stationery including order books, official receipt forms or books, tickets, licences or other such documents representing money or monies worth or for which fees are chargeable, shall be in a form determined or approved by the Chief Finance Officer.
- 8.2 Procedures for the ordering, receipt, storage and issuing of controlled stationery will be determined by the Chief Finance Officer in conjunction with the Chief Officer concerned. The procedures will include the keeping of controlled stationery register(s).
- 8.3 Chief Officers are responsible for the safe custody of all used and unused documents in their possession. Redundant financial stationery shall be destroyed by shredding or incineration under supervision and a written record kept of such occurrence.

## External Arrangements

### 1. PARTNERSHIPS

#### Why is this important?

- 1.1 Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.
- 1.2 Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

#### General

- 1.3 The main reasons for entering into a partnership are:
- (a) the desire to find new ways to share risk;
  - (b) the ability to access new resources;
  - (c) to provide new and better ways of delivering services; and
  - (d) to forge new relationships.
- 1.4 A partner is defined as either:
- (a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or
  - (b) a body whose nature or status give it a right or obligation to support the project.
- 1.5 Partners participate in projects by:
- (a) acting as a project deliverer or sponsor, solely or in concert with others;
  - (b) acting as a project funder or part funder; and
  - (c) being the beneficiary group of the activity undertaken in a project.

- 1.6 Partners have common responsibilities:
- (a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation;
  - (b) to act in good faith at all times and in the best interests of the partnership's aims and objectives;
  - (c) be open about any conflict of interests that might arise; and
  - (d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors
  - (e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature; and
  - (f) to act wherever possible as ambassadors for the project.

### **Key controls**

- 1.7 The key controls for authority partners are:
- (a) to be aware of their responsibilities under the authority's financial regulations and the code of practice on tenders and contracts;
  - (b) to ensure that risk management processes are in place to identify and assess all known risks;
  - (c) to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise;
  - (d) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences; and
  - (e) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

### **Responsibilities of the Chief Finance Officer**

- 1.8 To advise on effective controls that will ensure that resources are not wasted.
- 1.9 To advise on the key elements of funding a project. They include:
- (a) a scheme appraisal for financial viability in both the current and future years;
  - (b) risk appraisal and management;
  - (c) resourcing, including taxation issues;
  - (d) audit, security and control requirements; and
  - (e) carry-forward arrangements.
- 1.10 To ensure that the accounting arrangements are satisfactory.

## **Responsibilities of Chief Officers**

- 1.11 To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Chief Finance Officer.
- 1.12 To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Chief Finance Officer.
- 1.13 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the authority.
- 1.14 To ensure that all agreements and arrangements are properly documented.
- 1.15 To provide appropriate information to the Chief Finance Officer to enable a note to be entered into the authority's statement of accounts concerning material items.

## **2. EXTERNAL FUNDING**

### **Why is this important?**

- 2.1 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the authority. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies such as the National Lottery and the single regeneration budget provide additional resources to enable the authority to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the authority's overall plan.

### **Key controls**

- 2.2 The key controls for external funding are:
  - (a) to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood;
  - (b) to ensure that funds are acquired only to meet the priorities approved in the policy framework by Council; and
  - (c) to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

### **Responsibilities of the Chief Finance Officer**

- 2.3 To ensure that all funding notified by external bodies is received and properly recorded in the authority's accounts.
- 2.4 To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.

- 2.5 To ensure that audit requirements are met.
- 2.6 To approve and sign all applications for external funding.

#### Responsibilities of Chief Officers

- 2.7 To ensure that any applications for external funding within their service responsibilities are approved and signed by the Chief Finance Officer before submission to the funding agency concerned.
- 2.8 To ensure full compliance with the council's External Funding strategy in respect of any external funding proposals undertaken within each service directorate, including obtaining and acting upon advice on any legal and financial aspects of such proposals from the Solicitor to the Council and the Chief Finance Officer.
- 2.9 To ensure that all claims for funds are made by the due date.
- 2.10 To ensure that the project progresses in accordance with the agreed project plan and that all expenditure is properly incurred and recorded.

### **3. WORK FOR THIRD PARTIES**

#### **Why is this important?**

- 3.1 Current legislation enables the authority to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is intra vires.

#### **Key controls**

- 3.2 The key controls for working with third parties are:
  - (a) to ensure that proposals are costed properly in accordance with guidance provided by the Chief Finance Officer :
  - (b) to ensure that contracts are drawn up using guidance provided by the Director of Governance and that the formal approvals process is adhered to; and
  - (c) to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

#### **Responsibility of the Chief Finance Officer**

- 3.3 To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

#### **Responsibility of the Director of Governance**

- 3.4 To issue guidance with regard to the legal aspects of third party contracts, and provide standard forms of contract to be used.

#### **Responsibilities of Chief Officers**

- 3.5 To ensure that the approval of the Cabinet is obtained before any negotiations are concluded to work for third parties.
- 3.6 To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Chief Finance Officer.
- 3.7 To ensure that appropriate insurance arrangements are made.
- 3.8 To ensure that the authority is not put at risk from any bad debts.
- 3.9 To ensure that no contract is subsidised by the authority.
- 3.10 To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- 3.11 To ensure that the department/unit has the appropriate expertise to undertake the contract.
- 3.12 To ensure that such contracts do not impact adversely upon the services provided for the authority.
- 3.13 To ensure that all contracts are properly documented.
- 3.14 To provide appropriate information to the Chief Finance Officer to enable a note to be entered into the statement of accounts.

# Procurement Rules

**April 2016**

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Appendix 2 Glossary and Definitions of Terms used in the Procurement Rules

### Documents referred to in (and that support the Operation of) these Procurement Rules:

- |  |                    |
|--|--------------------|
| (a) Council’s Corporate Procurement Checklist  | [ Available here ] |
| (b) A Basic Guide to Public Sector EU Procurement Legislation                                | [ Available Here ] |
| (c) Council’s Standard Pre-Qualification Questionnaire (PQQ)                                 | [ Available here ] |
| (d) Council’s Procedure Note on Financial Checks for Tender Processes                        | [ Available here ] |
| (e) Crown Commercial Service’s Guidance on Electronic Procurement & Electronic Communication | [ Available here ] |
| (f) Council’s EFDC Guidance of Electronic Tendering  | [ Available here ] |
| (g) Council’s Tender Return Label  | [ Available here ] |
| (h) Council’s Certificate of Bona Fide Tendering   | [ Available here ] |
| (i) Council’s Formal Declaration of Tender Offer   | [ Available here ] |
| (j) EFDC Corporate MEAT Assessment Methodology   | [ Available here ] |
| (k) Standard Procurement Process (“Regulation 84”) Report                                    | [ Available here ] |
| (l) Council’s Standard Consultants Agreement   | [ Available here ] |

**(Note: A Glossary and Definitions of Terms used in these Procurement Rules is provided at Appendix 2. Reference to such terms in these Procurement Rules are denoted with a capital letter)**

## **1. Introduction**

- 1.1 These Procurement Rules set out the procedures that must be followed by all officers for the procurement of Contracts for any Works, Supplies or Services on behalf of the Council, including Official Orders issued through the Council's Marketplace electronic ordering system. A serious/wilful failure to comply with these Procurement Rules could result in disciplinary action being taken.
- 1.2 They seek to adopt a modern and flexible approach to procurement, that is easy to follow and comply with, and are responsive to the Council's current and future procurement needs, whilst ensuring appropriate controls and probity to safeguard the use of public money. They are also set out in a logical, sequential order to help lead officers through the procurement process.
- 1.3 These Procurement Rules also relate to certain disposals of land and property, and other property transactions, which are covered in Section 25 below. Associated delegations to officers are covered by the Schedule of Officer Delegations within the Council's Constitution. However, these Procurement Rules do not relate to the acquisition of land or properties, which must be authorised through reports to the relevant Portfolio Holder or Cabinet as appropriate.
- 1.4 The transitional arrangements to apply when these Procurement Rules are first introduced is that, wherever possible, any procurement activities for procurements commenced before the adoption of these Procurement Rules must comply with these Procurement Rules. For example, if a Select List was formulated before the adoption of these Procurement Rules (under the Council's previous Contract Standing Orders), but Tenders had not been invited at the time of adoption, the Tenders should still be invited in accordance with these Procurement Rules.
- 1.5 These Procurement Rules represent the Council's Contract Standing Orders for the purposes of Section 135 of the Local Government Act 1972.

## **2. General rules**

### *(a) Responsibility*

- 2.1 It is the responsibility of the designated Spending Control Officer for the budget that will be used to fund the resultant Contract to ensure that these Procurement Rules are followed.
- 2.2 When the Total Contract Value of a Contract or Official Order to be issued is less than the minimum for Contract Category 1 at Appendix 1, subject to the requirements at Section 2.9 below (Total Contract Values over a 12-month period), these Procurement Rules do not have to be followed. However, it is the responsibility of all Spending Control Officers to try to obtain value for money, in terms of price and quality, through any Contract or Official Order that they issue, irrespective of its value. Spending Control Officers should therefore be aware of what constitutes appropriate price and quality for the Works, Supplies or Services sought.

### *(b) Approach to procurement*

- 2.3 In order to help ensure compliance, and to provide a documented audit trail, Spending Control Officers must use and complete the Council's "**Corporate Procurement Checklist**" available on the Council's Intranet [\[here\]](#) throughout the procurement process for any Contracts with a Total Contract Value within Category 2 of Appendix 1 or higher. They must also keep a copy of the completed "**Corporate Procurement Checklist**" on the relevant Contract file, both throughout the procurement process and for at least 3 years after the completion of the Contract.

2.4 Reference to “Directors” throughout these Procurement Rules also includes the relevant Assistant Director responsible for providing the service to which the relevant procurement relates, except where an Assistant Director is also the Spending Control Officer responsible for undertaking the procurement. Where a Director is responsible for a procurement, the Chief Executive will take the role of the Director.

*(c) Compliance with EU Regulations additional to these Procurement Rules*

2.5 These Procurement Rules do **not** set out or duplicate the legal requirements that must be followed for EU Regulated Contracts with Total Contract Values above the value thresholds set out in the Public Contracts Regulations 2015. For such EU Regulated Contracts, officers **must** comply with the requirements of the Public Contracts Regulations 2015. If there is any conflict between these Procurement Rules and the Public Contracts Regulations 2015 or any other legislation, then the relevant legal requirements take precedence. Advice on the Public Contracts Regulations 2015 can be obtained from the Corporate Procurement Officer. A **“Basic Guide to Public Sector EU Procurement Legislation”** [can be downloaded here](#). However, these Procurement Rules do set out the Council’s own requirements for complying with EU Regulated Contracts specified within the Public Contracts Regulations 2015, which are shown in italic text. Particular attention is drawn to Section 17 of these Procurement Rules, which explains the Council’s requirements, in respect of EU Regulated Contracts, for Spending Control Officers to complete and maintain the required Procurement Process Report under Regulation 84 of the Public Contracts Regulations 2015 throughout the procurement process.

*(d) Framework Agreements*

2.6 Where appropriate, Spending Control Officers are encouraged to use central contracts and existing Framework Agreements – either through the Essex Procurement Hub or with other organisations to which the Council has access. Where such central contracts or existing Framework Agreements are used, some parts of these Procurement Rules do not have to be followed – except where competitive tendering is undertaken amongst Contractors on Framework Agreement Select Lists. Spending Control Officers should seek advice, and receive confirmation in writing, from the Council’s Corporate Procurement Officer on which parts of these Procurement Rules do not have to be followed in such circumstances.

*(e) Exemption from Procurement Rules*

2.7 These Procurement Rules do not have to be followed in the following circumstances:

(a) Where the relevant Director or Asst. Director obtains formal approval from the relevant Portfolio Holder or the Cabinet, confirming that he/she/it is satisfied that the work required could reasonably only be undertaken by one specialist contractor/supplier, together with the reasons.

Such approval is required from:

- (i) A Portfolio Holder for Contracts with a Total Contract Value within Contract Categories 1-3 at Appendix 1; and
- (ii) The Cabinet for Contracts with a Total Contract Value within Contract Category 4.

This provision does not apply for EU Regulated Contracts with a Total Contract Value within Contract Category 5 (i.e. above the EU Procurement Thresholds); or

(b) Where it is essential to meet an immediate need, subject to the Spending Control Officer seeking advice from the Corporate Procurement Officer where the Total Contract Value is within Contract Category 5 at Appendix 1 (i.e. above the EU Procurement Thresholds), which;

- (i) Has been created by a sudden emergency; or

- (ii) Is outside the Council's control (e.g. by order of the Courts or another body with an equivalent power), or
- (ii) Has some other over-riding urgency.

In such circumstances, the Spending Control Officer must provide a report to the next available meeting of the Corporate Governance Group explaining the reasons why the matter had to be treated as a matter of urgency and why these Procurement Rules could not be followed.

If it is necessary to incur expenditure outside of the Council's budgetary framework, Spending Control Officers must comply with the additional relevant requirements within the Council's Financial Regulations

- 2.8 In other circumstances, where a Spending Control Officer feels that there are good reasons why specific parts of these Procurement Rules should not be followed for a particular procurement, they may seek a waiver from compliance with that part of the Procurement Rules. Requests for such waivers must be made in writing by the Spending Control Officer. Approvals can only be given in writing (or through a Portfolio Holder Decision or Cabinet minute as appropriate) by the relevant person/body listed at Appendix 1 who is responsible for accepting Tenders for the Contract Category relating to the Total Contract Value of the proposed Contract.

*(f) Cumulative value of Contracts*

- 2.9 When seeking to procure a Contract, Spending Control Officers must:

- (a) Consider and assess the likely total value of Contracts and/or Official Orders to be provided to a potential Contractor by their Directorate over a 12 month period for similar Works, Supplies and/or Services *(or over a 4-year period where the total value would exceed the thresholds for EU Regulated Contracts set out in the Public Contracts Regulations 2015 and reproduced at Appendix 1)* that could, alternatively, be procured through one or more Contracts or Framework Agreements over that period; and
- (b) If the total value of such Contracts over any 12 month period is likely to be more than the threshold for Contract Category 1 listed at Appendix 1, seek Tenders and procure a Contract in accordance with these Procurement Rules.

- 2.10 Contracts must not be artificially separated to avoid compliance with either these Procurement Rules or the Public Contracts Regulations 2015.

*(g) Breaches of Procurement Rules*

- 2.11 If it comes to light that these Procurement Rules have not been followed, the relevant Assistant Director must submit a report to the next available meeting of the Corporate Governance Group (or successor officer group) explaining the reason for the breach and, if appropriate, the proposed remedy for correcting or mitigating the effects of the breach. The CGG will identify any breaches that it considers to be sufficiently serious to be reported to the Audit and Governance Committee (or successor member body).

- 2.12 The provision of in-house Council Services is excluded from the requirement of these Procurement Rules.

*(h) Suspension of Contractors*

- 2.13 Contractors can only be suspended from consideration for future contracts on the grounds of one of the mandatory and discretionary exclusions set out in the Public Contracts Regulations 2015 and only for the periods specified in the Public Contracts Regulations 2015.

- 2.14 If any Spending Control Officer considers that a Contractor should be suspended from consideration for future Contracts with the Council for a specified period, they must submit a report to the Corporate Governance Group;
- (a) Explaining the reasons for suspending the Contractor;
  - (b) Recommending a proposed period of suspension; and
  - (c) Seeking approval to such a decision.
- 2.15 If the Corporate Governance Group agrees that a Contractor should be suspended, the Spending Control Officer must:
- (a) Advise the Corporate Procurement Officer of the decision, who must in turn notify all Directors and Assistant Directors of the decision; and
  - (b) Advise the Contractor of the reasons for the suspension and the period of the suspension.
- (i) Conflicts of interest*
- 2.16 No person or body who has given material advice to the Council, or a Consultant acting on behalf of the Council, on a proposed Contract can then submit a Tender for that Contract, where more than one Tender is required (i.e. for Contracts with a Total Contract Value within Contract Category 1 of Appendix 1 or higher).
- (j) Absence of post-holder*
- 2.17 In the absence of the post-holder, the responsibilities of specifically named posts within these Procurement Rules, can be discharged by:
- (a) Their Director or Assistant Director; or
  - (b) An officer designated by them.
- 2.18 All designations of committees, portfolio holders, other bodies and officers referred to in these Procurement Rules also include successor bodies and posts.

### **3. Exceptions for Central Purchasing Bodies**

- 3.1 These Procurement Rules do not apply for the procurement of Contracts by a Central Purchasing Body, of which the Council is a member, or under which the Council is entitled to benefit by virtue of its status as a public authority. In such circumstances, the rules for procurement that relate to the member of the Central Purchasing Body undertaking the procurement on behalf of the Central Purchasing Body will apply.
- 3.2 However, where Tenders are invited by an officer of the Council on behalf of a Central Purchasing Body, these Procurement Rules must be followed.
- 3.3 In any event, if the value of the Works, Supplies or Services that the Council will be required to fund itself through a Central Purchasing Body or collaborative arrangement is:
- (a) Within Contract Categories 1 or 2 at Appendix 1 - The relevant Director or Asst. Director must be satisfied that the terms and conditions of the proposed Contract are appropriate under all the circumstances, taking any legal advice from the Asst. Director (Legal Services) that the Spending Control Officer, Director and/or Asst. Director considers necessary.
  - (b) Within Contract Category 3 at Appendix 1 or higher - The Spending Control Officer must report to the relevant Portfolio Holder on the proposed arrangements for the procurement of

the Contract and obtain a formal Portfolio Holder Decision agreeing to the proposed arrangements;

- 3.4 Where the Council is considering sharing services with other public bodies or arranging for services to be provided to the Council by a company in which the Council has an interest, legal advice should be obtained.

#### **4. Contract Conditions**

##### *(a) Compliance with Procurement Rules by Consultants*

- 4.1 Where one or more Consultants are appointed to advise or act on behalf of a Spending Control Officer in respect of the procurement or administration of a Contract, the Contract for their appointment(s) must include a condition that the Consultant must comply with these Procurement Rules and the Consultant must be provided with a hard or electronic copy of these Procurement Rules.
- 4.2 It is the responsibility of the Spending Control Officer to ensure that Consultants appointed by them are aware of the requirements of these Procurement Rules, and that they comply with them.

##### *(b) Standard Contract terms*

- 4.3 If the Council's Standard Form of Contract or Official Order is used, no amendments can be made without consulting the Asst. Director (Legal Services). If the Council's Standard Form of Contract is not used, the Contract must include standard contract terms, which are available on the Council's Intranet, unless the Asst. Director (Legal Services), in consultation with the Spending Control Officer, determines that individual standard terms are not required for a particular Contract.

##### *(c) Liquidated and Ascertained Damages*

- 4.4 For Contracts with Total Contract Values within Contract Category 3 of Appendix 1 or higher, and where late completion or non-completion of the Contract would result in a quantifiable financial loss to the Council, the Contract must include a condition that Liquidated and Ascertained Damages will be payable in such circumstances.
- 4.5 In such circumstances, the Contract must set out the level of Liquidated and Ascertained Damages that will be payable, which must be the Spending Control Officer's best estimate of the loss to the Council for each week of late or non-completion. Advice regarding the calculation can be obtained from the Council's Asst. Director (Accountancy) or his/her designated officer.

##### *(d) Performance Bonds and Parent Company Guarantees*

- 4.6 A condition must be included within all Contracts (only) for:
- (i) **Services** - with Total Contract Values within Contract Category 4 of Appendix 1 or higher; and
  - (ii) **Works** - with Total Contract Values within Contract Category 5 of Appendix 1 or higher;
- that requires the Contractor to provide, at its own cost, either:
- (iii) A Performance Bond for the Contract's due performance; or
  - (iv) With the agreement of the Asst. Director (Accountancy), either a Parent Company Guarantee or a deposit with the Council, as security, in a form agreed with the Assistant Director (Accountancy).

(e) *Retentions*

4.7 Where a Contract includes provision for a Defects Liability Period, a condition must be included within the Contract allowing the Council to hold a Retention for:

- (a) At least 5% of the Contract Sum during the course of the Contract Period; and
- (b) At least 2.5% of the Contract Sum on Practical Completion;

which must not be finally released until the end of the Retention Period.

(f) *Insurances*

4.8 Subject to Section 4.9 below, conditions must be included within:

- (i) All Contracts that require Contractors to have in effect, at the time of signing the Contract, minimum third party insurance cover of £5 million and minimum employer liability cover of £10 million; and
- (ii) All appointments of Consultants that require them to have in effect, at the time of signing the Contract, Professional Indemnity Insurance with a minimum cover of £2million for any one claim or such other sum as may be determined.

4.9 Subject to obtaining written advice from the Council's Insurance Officer, Spending Control Officers may include conditions within Contracts specifying lower levels of insurance than set-out at Section 4.8 above, dependent on the risk assessed by the Spending Control Officer, based on the advice of the Council's Insurance Officer.

4.10 The Contractor shall also be required:

- (i) To show to the Spending Control Officer evidence of all relevant insurance policies, both in place at the time of signing the Contract and any new policies obtained on the expiry of insurance policies, who must check that all required insurances are in effect throughout the duration of the Contract for the required levels of cover; and
- (ii) For construction contracts only, with Total Contract Values within Contract Category 4 of Appendix 1, to have the interest of the Council noted on the insurance policies.

(g) *Assignment*

4.11 A condition must be included within every Contract which prohibits the Contractor from transferring or assigning (directly or indirectly) any part of the Contract to another person or body without the written permission of the Council. *It should be noted that EU Regulated Contracts may only be assigned in limited circumstances.*

4.12 On receipt of a request from a Contractor to assign all or part of a Contract, the Spending Control Officer must undertake the checks of the proposed assignee required by Sections 7 and 8 below, before approving the assignment.

(h) *Cancellation*

4.13 All Contracts must include conditions relating to the cancellation of the Contract, in terms specified by the Assistant Director (Legal), either generally or for specific contracts.

4.14 *All EU Regulated Contracts must include a condition providing an express right for the Council to terminate the contract in specified circumstances, in the form prescribed in Regulation 73 of the Public Contracts Regulations 2015.*

*(i) Appointment of Sub-Contractors and alternative suppliers*

- 4.15 A condition must be included within every Contract which prohibits the Contractor from appointing a sub-contractor or alternative supplier to perform any part of the Contract without the prior written consent of the Council.

*(j) Access to sites and documentation for audit purposes*

- 4.16 All Contracts must contain a provision allowing an officer designated by the relevant Director, Asst. Director and/or Chief Internal Auditor access, for audit purposes, to:

- (i) A site where a Contract is being performed; and/or
- (ii) Relevant documentation relating to a Contract.

*(k) Payments to Contractors*

- 4.17 In order to comply with Regulation 113 of the Public Contracts Regulations 2015, a condition must be included within every Contract requiring that all payments made by the Council to Contractors, and by Contractors to any sub-contractors, must be made no later than 30 days from the date a valid and undisputed invoice is received. Spending Control Officers must then ensure that this Contract condition is complied with.

**5. Rules for identifying and selecting Contractors/suppliers**

- 5.1 Subject to 2.9 above, where a Total Contract Value is below Contract Category 1 at Appendix 1, there is no requirement for Spending Control Officers to obtain competitive Tenders for procurements. In such circumstances, Spending Control Officers can decide the most appropriate Contractor to select to perform the Contract. However, for the avoidance of doubt, Spending Control Officers can seek competitive Tenders if they consider it appropriate.

- 5.2 *Except for EU Regulated Contracts, where the procedure for inviting Tenders must comply with Public Contracts Regulations 2015, Spending Control Officers may use any of the following methods that they consider most appropriate, under all the circumstances, to determine which Contractors should form a Select List to be invited to submit Tenders, subject to a written explanation of the criteria adopted for selecting Contractors being held on the relevant Contract file and a copy being provided to the Corporate Procurement Officer at the time of formulating the Select List:*

- (a) Use of Constructionline – Spending Control Officers may reduce a Long List produced by Constructionline for the type and value of Contract required to an appropriate Short List (comprising the required number of Tenderers set out in Appendix 1) using a method previously considered appropriate, and approved in writing, by their Director or Asst. Director;
- (b) Use of an existing or new Framework Agreement – including a Framework procured by the Essex Procurement Hub;
- (c) Use of Contractors known to be able to meet the Council's requirements to a good quality and to provide good value for money;
- (d) Use of Contractors who have previously been successful in Tendering for similar work for the Council in the past; and
- (e) Through the formulation of a Select List by:
  - (i) The inclusion of Contractors considered to be able to perform the Contract; and/or

(ii) Advertising for potential Contractors as appropriate (but note 5.3 below).

- 5.3 Where Contractors are invited to express an interest in being considered for specific procurements for Contracts with a Total Contract Value in excess of £25,000, through the placement of an advertisement in any media, the Corporate Procurement Officer must be notified and provided with the details of the procurement. The Corporate Procurement Officer must then publish the required information on the Government's Contracts Finder website, in accordance with the Public Contracts Regulations 2015.
- 5.4 Unless there are good reasons, if an in-house Council service can meet the requirements of the Specification to the required quality, they must be used in preference to an external Contractor. This includes the Council's Reprographics and Building Control Services.
- 5.5 When Spending Control Officers are deciding which Contractors should be invited to provide Tenders, they must take account of the following:
- (a) *If the Contract is for a Total Contract Value in excess of the thresholds for EU Regulated Contracts set out in the Public Contracts Regulations 2015, the selection of Contractors to Invite to Tender must be in accordance with these Regulations;*
  - (b) *With the exception of EU Regulated Contracts, where appropriate and possible, at least one business with its headquarters located in the Epping Forest District should be invited to Tender;*
  - (c) Contractors who have previously provided good quality Works, Supplies or Services with good value for money should be invited to Tender in preference to Contractors with whom the Council has not had any previous experience; and
  - (d) It may be appropriate to seek references for Contractors from other local authorities or public bodies for whom they have previously undertaken Works or provided Supplies or Services.
- 5.6 In accordance with the Public Contracts Regulations 2015, Pre-Qualification Questionnaires (PQQs) must not be used for any procurement exercises that are not EU Regulated Contracts. It is still possible to ask questions relating to Contractors' suitability, provided that they are relevant to the subject matter of the procurement, are proportionate and are only used to establish whether Contractors meet minimum requirements of suitability, capability, legal status and financial standing. All candidates meeting the minimum criteria must be invited to tender.
- 5.7 *For EU Regulated Contracts, if Pre-Qualification Questionnaires (PQQs) are used, unless there are good reasons, the "Council's Standard Pre-Qualification Questionnaire (PQQ)" should be used, which is available from the Council's Intranet [\[ here \]](#). If a different form of PQQ is required, or the questions in the Council's Standard PQQ are not considered to be reasonable or proportionate, the amendments must be agreed with the Council's Corporate Procurement Officer.*

## **6. Nominated Sub-Contractors and Suppliers**

- 6.1 Nominations made by the Council to a main Contractor for a sub-contractor or a supplier must be made following Tenders being sought in accordance with these Procurement Rules to select the Nominated Sub-Contractor or Supplier, except where a supplier has previously been used by the Council and the likely overall cost to the Council of changing supplier is considered by the relevant Director or Assistant Director to be greater than any reduced costs that could reasonably be obtained through a further Tendering process.

## **7. Checks to be undertaken on the experience, abilities and financial standing of Tenderers**

- 7.1 If Tenders are to be invited from Contractors listed on Constructionline or an existing Framework Agreement no further checks are required, subject to the required checks of financial standing referred to in Section 8 below.
- 7.2 If Tenders are to be invited for Contracts with Total Contract Values covered by Contract Categories 1 or 2 in Appendix 1 no checks of Contractors are required, subject to:
- (a) The required checks of financial standing referred to in Section 8 below; and
  - (b) If the Contract has any material health and safety implications, evidence of a good track record of health and safety and the adoption and use of satisfactory health and safety policies being obtained, to the satisfaction of the Spending Control Officer.
- 7.3 However, if the Spending Control Officer considers it appropriate, any (further) checks (including those listed at Section 7.3 and 7.4 below), can be undertaken for any Contracts with Total Contract Values covered by Contract Categories 1 or 2 in Appendix 1 (provided that they are in line with Section 5.6 above).
- 7.4 For all Contracts with Total Contract Values covered by Contract Category 3 in Appendix 1 or higher, the following checks must be undertaken of all Tenderers intended to be invited to submit Tenders, prior to issuing Invitations to Tender, in a form considered appropriate by the Spending Control Officer. *For EU Regulated Contracts, the wording provided by the Crown Commercial Service's Standard Pre-Qualifying Questionnaire (PQQ) must be used:*
- (a) Details of each potential Tenderer's previous experience and ability to undertake the work - to ensure that they are able to perform the Contract to the required standard;
  - (b) If the Contract has any material health and safety implications, evidence of a good track record of health and safety and adoption and use of satisfactory health and safety policies;
  - (c) The financial standing of proposed tenderers, if/as required by the Council's "**Procedures for Financial Checks of Contractors**" referred to in Section 8 below (available on the Council's intranet [\[ here \]](#));
  - (d) Details of each Contractor's approach to equality and diversity, to ensure that both the Contractor and the Council comply with the requirements of the Equality Act 2010; and
  - (e) If the Contractor or their staff are likely to identify any Safeguarding issues relating to the wellbeing of either adults with care and support needs or children in the performance of the Contract, details of each Contractor's approach to Safeguarding, to ensure that the Contractor and its employees are able to assist the Council to comply with its legal requirements under the Care Act 2014 and the Children Act 2004.

## 8. Checks of financial standing

- 8.1 Checks of Contractors' financial standing should be undertaken as shown below, for the types of Contracts set out below:

- |     |                 |   |
|-----|-----------------|---|
| (a) | <b>Supplies</b> | Not required.   |
| (b) | <b>Works</b>    | For all Contracts with a Total Contract Value within Contract Category of Appendix 1 or higher. |
|     | 2               |   |
| (c) | <b>Services</b> | For all Contracts with a Total Contract Value within Contract Category of Appendix 1.           |
|     | 5               |   |

8.2 If checks of Contractor's financial standing are required in accordance with Section 8.1 above, the checks must be undertaken in accordance with the Council's **"Procedures for Financial Checks of Contractors"** (available on the Council's intranet [\[ here \]](#)), which sets out:

- (a) At what point in the procurement process financial checks should be undertaken;
- (b) Who has responsibility for undertaking the checks;
- (c) What checks should be undertaken and the methodology to be followed; and
- (d) What action should be taken based on the outcome of the checks.

## 9. Obtaining value for money for Contracts where Tenders are not required from more than one Contractor

9.1 Tenders are not required from more than one Contractor for Contracts with a Total Contract Value below the Total Contract Values of Category 1 at Appendix 1. However, Tenders can still be sought in such circumstances - with the manner in which such Tenders are sought being determined by the Spending Control Officer and which does not have to comply with these Procurement Rules.

9.2 If Spending Control Officers do not seek Tenders from more than one Contractor, they must still take reasonable and appropriate steps to ensure that the Council obtains good value for money from Contractors, in terms of price and quality.

## 10. Rules for inviting Tenders where more than one Tender is required

10.1 For Contracts with a Total Contract Value within Category 1 of Appendix 1 or higher (including the value of any potential Contract Extensions), Spending Control Officers must invite Tenders from at least the number of Contractors shown in Appendix 1 for the relevant Contract Category.

10.2 Where Spending Control Officers consider that increased value for money may be obtained by inviting more Contractors to Tender for a Contract than the number required for the relevant Contract Category at Appendix 1, they should invite more Contractors to Tender as appropriate.

10.3 Where the Total Contract Value (including the value of any potential Contract Extensions) is close to the upper threshold for a Contract Category in Appendix 1, Tenders should be sought based on the Contract Category with the higher Total Contract Values.

10.4 Spending Control Officers must give Tenderers sufficient time to properly complete and return Tenders before the Tender Return Date.

10.5 *For EU Regulated Contracts with a Total Contract Value above the thresholds within the Public Contracts Regulations 2015 (i.e. within Category 5 of Appendix 1), Spending Control Officers must comply with the e-communication requirements of Regulations 22(8-21) and 53 of the Public Contracts Regulations 2015. With effect from 18<sup>th</sup> October 2018, Spending Control Officers must comply with the full e-communication requirements of Regulation 22 and any other provisions of the Public Contracts Regulations 2015 relating to e-communications. A copy of the Crown Commercial*

Service's "**Guidance on Electronic Procurement & Electronic Communication**", to comply with the Public Contracts Regulations 2015, is available [\[ here \]](#).

- 10.6 Any electronic procurements undertaken by Spending Control Officers on behalf of the Council must comply with the "**Council's Guidance on Electronic Tendering**" available [\[ here \]](#).
- 10.7 For procurements within Categories 1-4 of Appendix 1, Invitations to Tender can be issued either by post or electronically. However issued, Invitations to Tender provided in accordance with this Section must:
- (a) Include a copy of the Council's standard "**Tender Return Label**" (obtainable from the Council's Intranet [\[ here \]](#)) within the Tender Documents, giving:
    - (i) A brief description of the Tender;
    - (ii) The designation of the person listed in Appendix 1 to whom the Tender must be returned;
    - (iii) The time (which must be Noon) and date by which the Tender must be received by the person designated within Appendix 1; and
    - (iv) Notification in large letters that the return document is a "TENDER".
  - (b) Include, in the form prescribed by the Asst. Director (Governance and Performance Management):
    - (i) A "**Certificate of Bona Fide Tendering**" (obtainable from the Council's Intranet [\[ here \]](#)); and
    - (ii) A "**Formal Declaration of Tender Offer**" (obtainable from the Council's Intranet [\[ here \]](#))
  - (c) Advise Tenderers that Tenders must be returned:
    - (i) In a plain envelope;
    - (ii) Which must be securely sealed; and
    - (iii) Which must not bear any distinguishing matter or mark to indicate the identity of the sender.
  - (d) Advise Tenderers that details of their Tender may be published:
    - (i) In the public agenda or minutes of the Council or become available as a background paper; or
    - (ii) By means of a request under the Freedom of Information (FOI) Act 2000 or the Environmental Information (EI) Regulations 2004, in response to which the Council would provide any information which is not covered by any of the statutory exemptions of the FOI Act or EI Regulations.
- 10.8 At the same time as sending the Invitations to Tender, Spending Control Officers must:
- (a) Advise the person listed in Appendix 1, to whom the Tender must be returned, of the return details of the Tenders; and
  - (b) Request the person to whom Tenders must be returned to arrange a time, date and venue for a Tender Opening.
- (a) Invitations to Tender by post*
- 10.9 Invitations to Tender must be sent to all Tenderers on the same date.
- 10.10 On the same day as sending the Invitations to Tender by post, Spending Control Officers must also send an email to all the Tenderers, but not revealing the names of other tenderers, to:

- (a) Advise them that Invitations to Tender have been despatched; and
  - (b) Request Tenderers to confirm safe receipt of the Tender Documents when received.
- 10.11 If safe receipt is not confirmed by a Tenderer within 3 working days of an Invitation to Tender being sent, Spending Control Officers must contact the Tenderer(s) concerned again to check receipt, and must continue to make appropriate periodic checks until all Tenders have been safely received.
- 10.12 Where it is apparent that Tender Documents have not been received by a Tenderer within a reasonable period, the Spending Control Officer must make appropriate arrangements to send duplicate Tender Documents as soon as reasonably possible (e.g. by hand or by courier).

*(b) Invitations to Tender by email*

- 10.13 Where Invitations to Tender are emailed to Tenderers, they must all be sent on the same date.
- 10.14 The email Invitation to Tender must require Tenderers to notify the Spending Control Officer of the safe receipt of the Tender Documents when received.
- 10.15 If safe receipt of Tender Documents is not confirmed within 24 hours of an Invitation to Tender being sent, Spending Control Officers must contact the Tenderer(s) concerned by telephone (not email) to check receipt.
- 10.16 Where it is apparent that Tender Documents have not been received by a Tenderer, the Spending Control Officer must make appropriate arrangements to immediately re-send the Tender Documents, either by email again or by post as appropriate, and then check receipt in accordance with Section 10.14 above.

**11. Additional rules for inviting and accepting tenders based on the Most Economically Advantageous Tender (MEAT) (i.e. price and quality) and/or a Schedule of Rates**

*(a) Most Economically Advantageous Tenders (MEATs)*

- 11.1 If the assessment of Tenders is to be based on an evaluation to assess the Most Economically Advantageous Tender (MEAT), i.e. taking account of both price and quality, Spending Control Officers must follow the Council's "**Corporate MEAT Assessment Methodology**" available on the Council's Intranet [\[ here \]](#).
- 11.2 Prior to Invitation of Tenders being issued, a MEAT Evaluation Assessment must be formulated by the Spending Control Officer and:
- (i) (A copy) must be provided to the Corporate Procurement Officer, prior to the Invitation of Tenders being issued, for audit purposes;
  - (ii) Must not be changed after Invitations to Tender have been issued; and
  - (iii) Must be held on the relevant Contract file for at least 1 year after the Contract has been let.
- 11.3 A copy of the MEAT Evaluation Assessment must be provided to Tenderers as part of the Tender Documents.

*(b) Schedule of Rates*

- 11.4 Where Tenders are based on a Schedule of Rates, a reasonable Pre-estimate of Quantities for each of the rates contained in the Tender must:

- (i) Be produced prior to Invitations to Tender being issued;
- (ii) Be lodged with the Corporate Procurement Officer for audit purposes;
- (iii) Not be changed after Invitations to Tender have been issued;
- (iv) Be held on the relevant Contract file for at least 6 years after the Contract has been let;
- (v) Be used to multiply the rates provided by Tenderers to reach an Estimated Tender Sum, which shall be the Tender Sum reported for consideration of acceptance by the relevant person/body specified in Appendix 1.

## **12. Rules for the receipt, custody and opening of Tenders with Total Contract Values within Category 1 of Appendix 1 or higher**

- 12.1 All Tenders received through electronic procurements must be received, held and opened in accordance with the Council's "**Guidance of Electronic Tendering**" available [\[here\]](#).
- 12.2 For Tenders with Total Contract Values within Category 1 of Appendix 1 or higher, the Assistant Director (Governance) must:
- (a) Make appropriate arrangements to hold returned Tenders in a secure location; and
  - (b) Maintain a Record of Tenders received by the Council, together with their time and date of receipt.
- 12.3 Unless it is known that all expected Tenders have been received, Tenders must not be opened on the same day as the Tender Return Date. This is to ensure that any Tenders that may have been delivered to the Civic Offices in time still reach the Asst. Director (Governance & Performance Management) before the Tender Opening.
- 12.4 Tenders must be opened, all at the same time, by the person(s) listed in Appendix 1 for the Contract Category related to the expected Total Contract Value and, if possible, the Spending Control Officer or their representative.
- 12.5 Tenders must not be accepted if they:
- (a) Are not in a plain envelope;
  - (b) Are not securely sealed;
  - (c) Do not have a "**Tender Return Label**";
  - (d) Bear any distinguishing matter or mark to indicate the identity of the sender;
  - (e) Do not include a "**Certificate of Bona Fide Tendering**"; or
  - (f) Do not include a "**Formal Declaration of Tender Offer**".
- 12.6 The Asst. Director (Governance & Performance Management) must ensure that a Democratic Services Officer maintains a record of all Tenders opened, which must be signed by all those in attendance at the Tender Opening.

### **13. Late receipt of Tenders**

- 13.1 Any Tenders received after the Tender Return Date must be examined, unopened, by the person designated within Appendix 1 to open the Tenders and shall be dealt with in accordance with this section.
- 13.2 Where Tenders have been received after the Tender Return Date, but the other Tenders have not yet been opened, and the person responsible for opening the Tenders is satisfied that there is evidence that the Tender was sent in time for delivery by the Tender Return Date, a Late Tender can be opened at the same time as the other Tenders, provided that:
- (a) The details relating to the Late Tender are noted in the Record of Tenders kept by the Democratic Services Officer at the time the Tenders are opened; and
  - (b) The circumstances are reported to the body or individual responsible for accepting the successful Tender.
- 13.3 Where other Tenders have already been opened or, in the opinion of the person responsible for opening the Tenders, there is no evidence that the Tender was sent in time to reach the Council by the Closing Date:
- (a) The Tender must be opened by the Asst. Director (Governance & Performance Management), in the presence of a Democratic Service Officer and, if possible, the Spending Control Officer or their representative;
  - (b) The Record of Tenders received must be annotated with details that a Late Tender was received, but was disqualified;
  - (c) The relevant Spending Control Officer must advise the Tenderer, as soon as reasonably possible, of the disqualification and the reason; and
  - (d) The circumstances must be reported to the body or individual responsible for approval of the successful Tender.

### **14. Alterations**

- 14.1 Tenders must not be altered after they have been opened. However, *except in the case of EU Regulated Contracts*, the Spending Control Officer can recommend to the person or body responsible for accepting the Tender that it is appropriate to accept the correction of Arithmetical Errors, if the Spending Control Officer is satisfied that such errors were made inadvertently. *For EU Regulated Contracts, any proposed alterations to Tenders after they have been opened must be discussed with the Council's Legal Services.*
- 14.2 If an error is identified within the Tender Documents before the Tender Return Date, all the Tenderers must be informed of the error and invited to adjust their Tenders prior to submission.
- 14.3 If an error in the Tender Documents is identified after the Tender Return Date, all Tenderers must be given details of the error and afforded the opportunity of withdrawing their Tender or submitting an amended Tender.

### **15. Post-Tender Negotiations**

- 15.1 No Post-Tender Negotiations are permitted, unless the Contract has been advertised and Tendered under the Competitive Dialogue Procedure and the relevant Director or Asst. Director is satisfied, and determines, that Post-Tender Negotiations are appropriate to the procurement process.

- 15.2 Seeking clarification from Tenderers on queries related to their Tenders does not constitute Post-Tender Negotiations. However, the Spending Control Officer must first consult with the Corporate Procurement Officer for advice and, if necessary, seek further legal advice.
- 15.3 If the Specification for a Contract needs to be amended, due to the lowest Tender exceeding the available budget, or if the Council's requirements have changed since the Tenders were invited, all Tenderers must be given the opportunity to submit revised Tenders based on the revised Specification.
- 16. Rules for accepting Tenders**
- 16.1 Tenders must only be accepted by the person/body listed in Appendix 1 for the relevant Contract Category relating to the Total Contract Value.
- 16.2 Where the actual Total Contract Value of the Tender to be recommended for acceptance exceeds the expected Total Contract Value for the relevant Contract Category at Appendix 1, and results in Tenders not having been invited and/or opened in accordance with the higher Contract Category, the Tenders must be reported to, and approved by, the person/body authorised to accept Contracts for the higher Contract Category, together with an explanation of why the actual Total Contract Value is above the expected Contract Value.
- 16.3 For Contracts that are not EU Regulated Contracts, if a Tender, other than either:
- (a) The lowest Tender (for Tenders based only on price); or
  - (b) The Tender with the highest weighted Tender Evaluation Score (for procurements undertaken to assess the Most Economically Advantageous Tender (MEAT))
- is recommended by the Spending Control Officer, it may only be approved by:
- (c) A Director or the relevant Asst. Director - where the Tender would normally be accepted by the Spending Control Officer;
  - (d) The relevant Portfolio Holder - where the Tender would normally be accepted by a Director, Asst. Director or the Portfolio Holder; or
  - (e) The Cabinet - where the Tender would normally be accepted by the Cabinet.
- 16.4 *For EU Regulated Contracts, there are only limited circumstances when a Tender, other than either the lowest-priced Tender or having the highest weighted Tender Evaluation Score, can be accepted. If acceptance of a different Tender is proposed, Spending Control Officers are required to seek the advice of the Corporate Procurement Officer and follow the requirements of the Public Contracts Regulations, and/or undertake a further Tender exercise.*
- 16.5 For audit purposes, where the circumstances in Sections 16.3 and 16.4 above apply, the Spending Control Officer must provide an explanation in writing to the person/body accepting the Tender of why the lowest Tender or highest weighted Tender Evaluation Score should not be accepted, and must retain a copy of the written explanation on the Contract file.
- 16.6 Prior to a Tender being accepted, evidence of valid satisfactory insurances required under Section 4.8 above to the amount, and on the terms, determined by the Council's Insurance Officer must be received from the Preferred Tenderer by the Spending Control Officer.
- 16.7 Spending Control Officers are authorised to enter into Contracts or issue Official Orders that have been Tendered and approved in accordance with these Procurement Rules.

- 16.8 For all procurement exercises with Total Contract Values in excess of £25,000, Spending Control Officers must provide details of all Tenders received, and the name of the successful Tenderer, to the Council's Corporate Procurement Officer within 5 working days of a Contract being entered into, in order to:
- (a) Maintain a central record of all procurement exercises; and
  - (b) Enable the Corporate Procurement Officer to provide the required information to the Contracts Finder website, in order to comply with the requirements of the Public Contracts Regulations 2015.
- 16.9 On receipt of the information provided by the Spending Control Officer, the Corporate Procurement Officer must upload the required information to the Crown Commercial Service's Contracts Finder website as soon as reasonably possible.
- 17. Procurement Process ("Regulation 84") Report**
- 17.1 *For EU Regulated Contracts undertaken with a Total Contract Value within Category 5 of Appendix 1, throughout the procurement process, Spending Control Officers must complete and maintain the required Procurement Process Report under Regulation 84 of the Public Contracts Regulations 2015. At the same time as informing Tenderers that their Tenders have been either successful or unsuccessful, Spending Control Officers must provide a copy of the completed Report to the Corporate Procurement Officer, in order to maintain a central record. A template for the "Procurement Process ("Regulation 84") Report" can be obtained from the Council's Intranet [\[ here \]](#).*
- 18. Contract Documentation and retention**
- 18.1 Contracts with a Total Contract Value within Contract Category 1 of Appendix 1 can be dealt with by the use of an Official Order, provided that the relevant Director or Asst. Director is satisfied that there is no need for more extensive terms and conditions to be specified in order to protect the interests of the Council. An Official Order (or formal Contract) is required for all Council Contracts.
- 18.2 All Contracts with a Total Contract Value within Contract Category 2 of Appendix 1 or higher must:
- (a) Be in a standard form of an appropriate formal legal agreement approved by the Council's Asst. Director (Legal Services); and
  - (b) Be under seal, unless the Council's Asst. Director (Legal Services), in consultation with the Spending Control Officer, determines otherwise. This would be on the basis that the period of liability for breach of contract does not need to be extended from six to twelve years.
- 18.3 Spending Control Officers (and their successors) must ensure that:
- (a) All appropriate Contract Documentation is retained in a secure location for a minimum period, following the date of final payment, of at least:
    - (i) Six years if the Contract is not executed as a deed under seal;
    - (ii) Twelve years if the Contract is executed as a deed under seal; and
  - (b) Documentation relating to unsuccessful Tenders is retained in a secure location for a period of at least two years.
- 18.4 Original signed Contracts with Total Contract Values within Contract Category 2 of Appendix 1 or higher must be forwarded to the Asst. Director (Legal Services) for secure storage within 28 days of

signing/sealing. Original signed Contracts with Total Contract Values within Contract Category 1 of Appendix 1 can also be forwarded to the Asst. Director (Legal Services) for secure storage if the Spending Control Officer wishes.

- 18.5 The Asst. Director (Governance & Performance Management) must ensure that Records of Tenders are retained indefinitely in a secure location.

## 19. Rules for negotiated contracts

- 19.1 Contracts with Total Contract Values within Contract Category 1 at Appendix 1 or higher may only be negotiated where the relevant Portfolio Holder (or, for Contracts within Contract Category 4, the Cabinet) has resolved that competitive Tenders need not be invited and that a Contract may be negotiated with just one Contractor.

- 19.2 In such circumstances, the reason for not inviting competitive Tenders must be set out in the report to the Portfolio Holder or Cabinet, which can be for any reason considered appropriate by the relevant Director or Asst. Director, including the following reasons:

- (a) The Contract is urgent and there is insufficient time to invite Tenders;
- (b) The requirements of the Contract are of a specialist nature, where no other Contractor is known to provide them;
- (c) No demonstrable material benefit would be obtained from inviting competitive Tenders; or
- (d) Tenders have previously been sought for a similar Contract within the previous 6 months and no Tenders were received.

- 19.3 *For EU Regulated Contracts, procurements must be undertaken in accordance with the Public Contracts Regulations 2015 in all circumstances.*

## 20. Use of Consultants

- 20.1 The definition of a “Consultant” is provided at Appendix 2.

- 20.2 The procurement of all Consultants must be undertaken in accordance with these Procurement Rules *and, where appropriate, the EU Regulations.*

- 20.3. Spending Control Officers are responsible for ensuring that any Consultants acting on behalf of the Council comply with these Procurement Rules in full.

- 20.4 Except where a recognised national Form of Contract or other accepted and standard type of agreement is used for the appointment of a Consultant, or where the Asst. Director (Legal Services) determines otherwise, the Council’s **“Standard Consultants Agreement”** must be used for the appointment of any Consultant. A template for the **“Standard Consultants Agreement”** can be found on the Council’s Intranet, and is available [\[ here \]](#).

- 20.5 Where a national Form of Contract or other accepted and standard type of agreement is to be used for the appointment of a Consultant, Spending Control Officers must take the advice of the Asst. Director (Legal Services (or staff designated by him/her) on any specific provisions to be included or excluded within the Contract / agreement.

## **21. Rules for Contract Extensions**

21.1 Spending Control Officers are authorised to extend existing Contracts where the Contract allows an extension, up to the maximum period allowed by the Contract.

## **22. Contract monitoring**

22.1 For all Contracts with a Total Contract Value within Category 4 of Appendix 1, the Spending Control Officer must provide a written progress report to the relevant Portfolio Holder(s) at least every three months, between the Tender Return Date and the date of Practical Completion. The Progress Report must report on the progress with the required Works or Services and the current financial position, in relation to:

- (a) Contract and fee expenditure to date;
- (b) The latest anticipated Total Contract Cost and the anticipated total cost of all fees;
- (c) Any variations between the budget approved at the time of the acceptance of the Tender and the latest anticipated Total Contract Cost and anticipated total cost of all fees; and
- (d) The use of any contingency sums to date and the amount of any contingency sums remaining.

22.2 For Contracts with Total Contract Values within Contract Category 3 of Appendix 1 or higher, where the latest anticipated Total Contract Cost is in excess of 20% of the Tender Sum, the Spending Control Officer must submit a written report to the next available meeting of the Council's Corporate Governance Group after the date the excess has been identified, explaining the reasons for the increase and, if appropriate, any remedial action to be taken to reduce the excess.

## **23. Final Accounts**

23.1 The Spending Control Officer responsible for any Contract with a Total Contract Value within Contract Category 4 of Appendix 1 or higher must produce a written Final Account, and provide a copy to the Asst. Director (Accountancy), within 3 months of all financial transactions relating to the Contract being completed. The Final Account must include details of the Tender Sum, Contract variations, Final Account sum, any deducted Liquidated and Ascertained Damages, any extensions of time awarded and any claims agreed with the Contractor.

23.2 If considered necessary, the Chief Internal Auditor may examine and audit the Final Account and associated Contract Documentation to satisfy that the Final Account is correct and represents an accurate and appropriate summary of Contract payments and deductions.

## **24. Publication of procurement information**

24.1 In order to comply with the Local Government Transparency Code 2015, the Corporate Procurement Officer must obtain from Spending Control Officers every 3 months (who must respond within 10 working days) the information required by Part 2.1 of the Local Government Transparency Code and ensure that the information is published every 3 months in accordance with the Code.

## **25. Disposal and freehold/leasehold property transaction**

25.1 For the purposes of these Procurement Rules:

- (a) All disposals and freehold/leasehold property transactions, including interests in land (such as acquisitions, disposals, new lettings, lease renewals, lease surrenders, rent reviews, sub-lettings, assignments, licences, deeds of variations, easements, wayleaves and land covenants on land) must be dealt with in accordance with the Schedule of Delegation set out in Part 3 of the Council's Constitution and any procedures required by law; and
  - (b) References to Total Contract Value within these Procurement Rules (including in Appendix 1) mean:
    - (i) The anticipated purchase price or premium for the disposal or freehold/leasehold property transaction; or
    - (ii) The annual rent.
- 25.2 Disposals or freehold/leasehold property transactions involving Council land and property may be through:
- (a) Formal tendering (providing for an initial deposit and binding contract if the Tender is successful);
  - (b) Formal tendering (providing for no initial deposit and no binding contract if the Tender is successful);
  - (c) Private treaty; or
  - (d) Public auction.
- 25.3 These Procurement Rules must be followed in full for all disposals or freehold/leasehold property transactions where Tenders from potential purchasers are sought in accordance with Section 25.2 (a) or (b) above.
- 25.4 If the method of disposal or property transaction set-out in Section 25.2(a) or (b) above is followed, the person/body that will be asked to accept the Tender may pre-determine that the relevant sale particulars should make provision for a two-stage offer process, that provides the Council with the option of inviting best and final offers after receipt of initial offers, where this is demonstrated to them to be appropriate:
- (a) By the relevant Spending Control Officer making such a recommendation in a written report to the person/body that will be asked to accept the Tender; and
  - (b) Having considered the case for adopting this method of disposal based on an assessment of the risks involved and concluding that this procedure is the most appropriate for achieving best value.
- 25.5 Disposals or other freehold/leasehold property transactions involving Council land or property sought through the methods set-out in Section 25.2 (c) or (d) above can only be approved:
- (a) In exceptional circumstances and if the person/body that will be asked to accept the Tender has considered a report prepared by the relevant Spending Control Officer which justifies the proposed procedure as the most suitable method of achieving best consideration; and
  - (b) If the transaction is for less than the open market value, the report referred to in Section 25.5(a) above contains an estimate of what the value of the transaction would be if advertised on the open market.
- 25.6 Where disposals or other freehold/leasehold property transactions involving Council land or property are sought through the methods set-out in Section 25.2 (c) or (d) above:

- (a) The relevant Director or Asst. Director may determine the appropriate arrangements to be followed if the anticipated Total Contract Value for the disposal or freehold/leasehold property transaction is within Contract Category 2 of Appendix 1 or lower;
- (b) The relevant Portfolio Holder must determine the appropriate arrangements to be followed if the anticipated Total Contract Value for the disposal or freehold/leasehold property transaction is within Contract Category 3 of Appendix 1; and
- (c) The Cabinet must determine the appropriate arrangements to be followed if the anticipated Total Contract Value for the disposal or freehold/leasehold property transaction is within Contract Category 4 of Appendix 1 or higher.

25.7 The arrangements referred to in Section 25.6 above may include:

- (a) Determining the most appropriate method of disposal to achieve the Council's statutory duty of obtaining best consideration; or
- (b) Deciding to sell for less than the open market value, provided that all statutory procedures are complied with, including (where necessary) obtaining the consent of a Secretary of State.

25.8 The Chief Estates Officer or Director of Neighbourhoods may agree, on behalf of the Council, to all estates acquisitions, disposals and licences set out within the Schedule of Officer Delegations in Part 3 of the Council's Constitution, where it would be in accordance with good estate management and would not adversely affect the premises concerned.

25.9 The relevant Portfolio Holder may take decisions under delegated authority for all estates management matters that, individually, have a cumulative value of between £500,001 and £999,999, subject to all other matters within these Procurement Rules being satisfied and undertaken in accordance with Article 14 (Decision Making) of the Council's Constitution.

AMH/March 2016

Table of Tendering Requirements for Nos. of Tenders, Returns and Openings

Contract Category	Total Contract Value <sup>(*)</sup>	Minimum no. of tenders to be invited <sup>(+)(@)</sup>	Designation of person to whom tenders must be addressed	Designation of person required to open tenders	Designation of person/body required to accept tender
1	£25,000 - £50,000	Three	Assist. Director (Governance & Performance Mgt)	Spending Control Officer <sup>(#)</sup> + Democratic Services Officer	Spending Control Officer <sup>(#)</sup>
2	£50,001 - £250,000	Three	Assist. Director (Governance & Performance Mgt)	Director or Asst. Director + Democratic Services Officer	Director or Asst. Director
3	£250,001 - £1million	Three	Assist. Director (Governance & Performance Mgt)	Portfolio Holder + Director/Asst. Director + Democratic Services Officer	Portfolio Holder
4	Over £1million	Three	Assist. Director (Governance & Performance Mgt)	Portfolio Holder + Director/Asst. Director + Democratic Services Officer	Cabinet
5	Above the relevant EU Threshold for Works, Supplies or Services	Five	As 1-4 above (dependent on contract value)	As 1-5 above (dependent on contract value)	As 1-5 above (dependent on contract value)

**Notes:**

(\*) Total Contract Value means the total value of the Works, Services and Supplies over the total period of the Contract, including all potential Contract Extensions to the initial Contract Period.

Where the Total Contract Value is within Contract Category 5, the arrangements for Contract Category 5 should be followed, and not the arrangements for any of the other Contract Categories that may also apply to the Total Contract Value.

**(+) If the estimated Total Contract Value is in excess of the value thresholds for Works, Supplies or Services, above which the Public Contracts Regulations 2015 apply, the required number of Tenders determined by the Regulations must be applied.**

(@) Includes any in-house Tenders submitted.

(#) Spending Control Officer means the person who is the named person responsible for the budget heading under which payments for the contract will be made, and is responsible for all aspects of the procurement process for a Contract and for complying with these Procurement Rules.



## Current EU Procurement Thresholds (1<sup>st</sup> January 2016 – 31<sup>st</sup> December 2017)

Contract Type	EU Threshold
Services / Supplies	£164,176
Works	£4,104,394
Light Touch Regime Services	£589,148

The EU Thresholds are updated at regular intervals. The latest Thresholds are [[Available Here](#)]

## Glossary and Definitions of Terms used in the Procurement Rules

Term	Definition or Explanation
Arithmetical Error	An error in addition, subtraction, multiplication or division within a submitted Tender.
Cabinet	The Leader of the Council and other councillors appointed by the Leader to form a group of councillors authorised by the Council's Constitution to make decisions on certain issues.
Central Purchasing Body	A contracting authority which either: <ul style="list-style-type: none"> <li>• Acquires supplies and/or services intended for contracting authorities; or</li> <li>• Awards public contracts (concludes framework agreements) for works, supplies or services intended for contracting authorities</li> </ul>
<b>“Certificate of Bona Fide Tendering”</b>	A form that Tenderers must complete, sign and return with their Tender to confirm that the Tender they are putting forward is the true offer that will be available to the Council if the Tender is won by the Tenderer (i.e. to confirm that the offer is genuine and is not just a competitive offer to push them forward through the Tender process). The Council's Standard <b>“Certificate of Bona Fide Tendering”</b> can be obtained from the Council's Intranet, and is available <a href="#">here</a> .
Competitive Dialogue Procedure	A formal and complex process, allowed by the Public Contracts Regulation 2015, for procuring a Contract through discussions with Contractors in a structured way.
Constructionline	The UK's leading procurement and supply chain management web-based service that collects, assesses and monitors standard company information through a question set that is aligned to the standardised pre-qualification questionnaire developed by the British Standards Institute, to reduce duplication within the construction industry.
Consultant	A person or organisation who is not employed by the Council, included on the Council's payroll or covering an establishment post, who is procured directly - through a company (or similar commercial undertaking) or an agency and is engaged to perform a specific task over a predetermined period.
Contract Award	The decision to enter into a Contract with a Contractor
Contract Documentation	All documents related to the administration of a Contract, not just the Tender Documents
Contract Extension	The continuation of a Contract for a further period of time allowed by the Contract. There can be more than one Contract Extension for a Contract.
Contracts Finder	A service provided by the Crown Commercial Service, and referred to in the Public Contracts Regulations 2015, that enables Contractors to search

	for information about Contracts worth over £25,000 with the Government, Government agencies and local government.
Contract Period	The period commencing with the date a Contract specifies that the provisions of the Contract are to start to the date the Contract comes to an end.
Contract Sum	The amount to be paid to a Contractor to perform a Contract, prior to any Contract Extensions, and referred to in the formal Contract between the Council and the Contractor.
Contracts	Contracts, agreements or orders for Works, Supplies or Services.
Contractors	Works contractors, Suppliers, Service providers and Consultants.
Corporate Governance Group	A group of officers, chaired by the Chief Executive, comprising members of Management Board, the Chief Internal Auditor and the Deputy Monitoring Officer.
Corporate Procurement Officer	The officer designated by the Director responsible for procurement arrangements within the Council, who co-ordinates procurement matters on the Director's behalf.
Crown Commercial Service	A Government Agency that brings together policy, advice and direct buying information in a single organisation and provides commercial Services to the public sector and saving money for the taxpayer. Much of the CCS's advice gives formal detailed guidance on the operation of the Public Contracts Regulations 2015.
Defects Liability Period	A set period of time after a Works Contract has been completed, during which a Contractor has the right to return to the site to remedy any defects at the Contractor's own cost.
Director	A Director, Assistant Director or the Chief Executive.
e-Communications	The method of using electronic communications, including email and web-based applications, to provide and receive documents and communications to and from Contractors, in accordance with the Public Contracts Regulations 2015 – detailed in the <b>“Guidance on Electronic Procurement &amp; Electronic Communication”</b> produced by the Crown Commercial Service [ <a href="#">Which can be found here</a> ]
Essex Procurement Hub	A Central Purchasing Body of six local authorities in Essex, including Epping Forest DC, that provides strategic and operational procurement support, advice and guidance in order to add demonstrable value to the procurement process to its members. The Hub lets and manages a number of national Framework Agreements that are accessible to any UK Public Authority.
Estimated Tender Sum	A Tender Sum formulated by applying rates submitted by a Tenderer to Pre-Estimated Quantities that are estimated to apply over the Contract Period and used to compare the Tenders received from different Contractors. This is nearly always different from the Total Contract Cost.
EU Regulated Contracts	Procurements by public bodies in the UK that are above the financial thresholds for Works, Supplies and Services Contracts referred to in

	the Public Contracts Regulations 2015, which stipulate the way in which any procurements above the financial thresholds must be undertaken. A <i>“Basic Guide to Public Sector EU Procurement Legislation”</i> <a href="#">can be downloaded here</a>
Final Account	A written statement that includes details of the Tender Sum, Contract variations, Final Account sum, any deducted Liquidated and Ascertained Damages, any extension of time awarded and any claims agreed with the Contractor.
<b>“Formal Declaration of Tender Offer”</b>	The form that Tenderers must complete, sign and return with their Tender to state and confirm their Tender Sum. The form includes a number of statements that Tenderers sign to confirm their compliance. The Council’s Standard <b>“Formal Declaration of Tender Offer”</b> is available on the Council’s Intranet, and is also available <a href="#">[ here ]</a> .
Framework Agreement	An agreement with Contractors to establish terms governing Contracts that may be awarded during the life of the Framework Agreement, or a general term for agreements that set out terms and conditions for making specific purchases (referred to as “call-offs”).
Insurance Officer	The officer designated by the Director responsible for insurance arrangements within the Council, who co-ordinates insurance matters on behalf of the Director.
Invitations to Tender	A letter, email or other communication sent to Tenderers – either by post or electronically – together with Contract Documents, that invites Tenderers to submit a Tender by the Tender Return Date.
Late Tender	A Tender that has not been received by the Asst. Director (Governance & Performance Management) by the Tender Return Date.
Light Touch Regime (LTR) / Procurement	A specific set of rules introduced by the Public Contracts Regulations 2015 for certain Services contracts that tend to be of lower interest to cross-border competition, that replace the previous distinction between “Part A” and “Part B”. These include certain social, health and education services, defined by the Regulations. A relatively high financial threshold is applied to the LTR, below which contracts do not need to be advertised in the OJEU. For LTR contracts above the threshold, contracting authorities have to follow a new light-touch set of procurement rules, set out in the Regulations.
Liquidated and Ascertained Damages	Fixed damages stated in a Contract, and usually set as an amount per week (or part of a week), which the Contractor must pay the Council (or which the Council may deduct from payments to the Contractor) if completion of the Contract is delayed beyond the Contract completion date, as adjusted by any extensions of time. Note that they are void as a penalty if they are not a "genuine pre-estimate" of the Council’s potential loss, in which case the Council can usually recover normal, unliquidated damages for breach of Contract.
Long List	A list of all Contractors expressing an interest in receiving an

	Invitation to Tender, before any selection process has been undertaken by the Council to produce a Short List.
Most Economically Advantageous Tender (MEAT)	A Tender for a Contract that has been evaluated not only on the basis of the price submitted by a Tenderer, but also on the basis of the assessed quality of both the submitted Tender and the Tenderer. This is in accordance with a pre-determined MEAT Assessment Methodology, with Tenders evaluated using a pre-determined MEAT Evaluation Assessment, which usually provides for pre-determined weightings to be applied to the price and the quality of various aspects of the Tender.
<b>“MEAT Assessment Methodology”</b>	The pre-determined approach agreed by the Council, and available on the Council’s Intranet, to assess the Most Economically Advantageous Tender (MEAT). The Council’s current Methodology <a href="#">[is available here]</a>
MEAT Evaluation Assessment	The document that sets out the pre-determined weightings to be applied to the price and the quality of various aspects of the Tender, and used to calculate the relative scores of all the Tenders received.
Nominated Sub-Contractors and Suppliers	Sub-contractors and suppliers that the Council requires a Works Contractor, Service provider or other Supplier to use to perform the Contract.
Official Order	A standard form of Contract placed with a Works Contractor, supplier, service provider or Consultant, that is usually issued through the Council’s Marketplace System or the Northgate Open Housing Management System (OHMS)
Parent Company Guarantee	A guarantee by the parent company of a Contractor in respect of the Contractor’s performance under its Contract with the Council, where the Contractor is a subsidiary of the parent company
Partnering Contract	A broad term used to describe a collaborative management approach that encourages openness and trust between the parties to a Contract. The parties become dependent on one another for success, which often requires a change in culture, attitude and procedures throughout the supply chain. Most commonly used on large, long-term or high-risk contracts, Partnering Contracts can be adopted for a one-off project, or can be a long-term relationship over a number of projects (such as a Framework Agreement).
Performance Bond	A means of insuring a Contractor against the risk of the Contractor failing to fulfil its contractual obligations to the Council. The Performance Bond provides compensation, guaranteed by a third party, up to the amount of the Performance Bond (which is typically set at 10% of the Total Contract Value), to enable the Council to overcome difficulties that have been caused by non-performance of the Contractor, such as, for example, finding a new Contractor to complete Works.
Portfolio Holder	A Councillor appointed by the Leader of the Council as a member of the Cabinet with responsibility for a particular portfolio of services, as set out in the Council’s Constitution.
Post-Tender Negotiations	Discussions that take place with one or more Tenderers on price and/or other terms of the Contract or Specification after Tenders

	have been received and opened.
Practical Completion	The completion of all the Works required to fulfil a Contract.
Pre-estimate of Quantities	A Spending Control Officer's best estimate of the quantities of items relating to the Contract that will arise over the Contract Period, that are applied to rates submitted by Tenderers to produce an Estimated Tender Sum, which is used to compare the Tenders received from different Contractors.
Preferred Tenderer	A Tenderer that is being recommended to be awarded a Contract.
<b>"Procurement Process ("Regulation 84") Report"</b>	A requirement of Regulation 84 of the Public Contracts Regulations 2015, relating to procurements where the Total Contract Value is above the EU thresholds for EU Regulated Contracts, which is completed throughout the procurement process and is a written statement, in a defined format, that provides information on different aspects of the procurement and must be made available to Tenderers on request. A template for the <b>"Procurement Process ("Regulation 84") Report"</b> can be obtained from the Council's Intranet, and is available <a href="#">[here]</a> .
Professional Indemnity (PI) Insurance	A liability insurance that helps protect individuals and companies (usually Consultants) from bearing the full cost of defending a negligence claim in respect of professional advice provided to the Council by the Consultant.
Public Contracts Regulations 2015	Regulations made by the UK Government to exercise the powers given by the European Communities Act 1972, relating to procurements by public bodies in the UK and, in particular, for EU Regulated Contracts that are above the financial thresholds for Works, Supplies and Services Contracts referred to in the Regulations.
Record of Tenders	A record of Tenders received for every procurement, where the Total Contract Value is within Contract Category 1 of Appendix 1 or higher, listing the Tender Sums submitted by each Tenderer, together with the Tenderer's names, completed by a Democratic Services Officer and held by the Asst. Director (Governance & Performance Management).
Retention	A percentage of the amount certified as due to a Contractor following their completion of a Contract, which is deducted from the amount due and retained by the Council. The purpose of holding a Retention is to ensure that the Contractor properly completes the activities required of them under the Contract.
Retention Period	The period during which a Retention is held by the Council.
Safeguarding	Ensuring the wellbeing of either adults with care and support needs or children in accordance with the requirements of the Care Act 2014 and the Children Act 2004 respectively.
Schedule of Rates	A list of prices provided by a Tenderer against items within a list produced by the Council for Tenderers to complete. The prices are multiplied by the

	Pre-Estimate of Quantities to produce an Estimated Tender Sum.
Select List	A list of selected Contractors to which Invitations to Tender are issued.
Services	<i>(According to Volume 1 of the EU Public Procurement: Law and Practice)</i> In relation to public Contracts, means matters which have as their object the provision of services other than those defined as Works.
Short List	A list of Contractors that has been reduced, following a selection process, from a Long List of Contractors expressing an interest in receiving an Invitation to Tender. The Short List often then forms a Select List.
Specification	A document that sets out the detailed requirements of the Council for the undertaking or provision of Works, Supplies or Services, and forms an important part of the Tender Documents and the subsequent Contract issued to a Contractor.
Spending Control Officer	The officer designated by a Director as being responsible for a specified Council budget, from which payments for a Contract will be made, who is responsible for all aspects of the procurement process for a Contract and for complying with these Procurement Rules.
Supplies	<i>(According to Volume 1 of the EU Public Procurement: Law and Practice)</i> In relation to public contracts, means a matter that has as its object the purchase, lease, rental or hire-purchase (with or without an option to buy) of a product or products.
Tender	A written tender, quotation or fee submission submitted by a Tenderer in accordance with these Procurement Rules, that sets out the Tenderer's proposed price for performing a Contract, together with any other information required by the Council and these Procurement Rules.
Tender Documents	A set of documents sent to Contractors with an Invitation to Tender, which explains the Council's requirements for a proposed Contract and includes documents to be returned to the Council for consideration
Tenderer	A person or organisation that is invited to submit a Tender to the Council.
Tender Evaluation Score	The score that results from a MEAT Evaluation Assessment of a Tender, which is used to rank Tenders in order of the Most Economically Advantageous Tender in terms of best price and quality. A Contractor with the highest Tender Evaluation Score is usually offered the Contract.
Tender Sum	The total price set out in a Tender that a Contractor would charge to perform the required Contract, before any Contract Extensions are applied. An Estimated Tender Sum is calculated where a Contractor prices a Schedule of Rates.
Tender Opening	A meeting between those designated within Appendix 1 to be present when Tenders received for a Contract are opened, and which must be held no earlier than the day after the Tender Return

	Date.
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Tender Return Date	<p>The time and date specified within an Invitation to Tender by which Tenders must be returned and received by the Council. The time must always be specified as Noon, in order to minimise the potential for</p> <p>Tenders not being received by the Asst. Director (Governance &amp; Performance Management) or his/her staff on the day of the Tender Return Date and to provide time for Tenders received at the Civic Offices before Noon to be passed to the Asst. Director (Governance &amp; Performance Management) before the Tender Opening</p>
<b>“Tender Return Label”</b>	<p>A label provided by the Council to Tenderers to affix to the envelope in which they return their Tender - which gives details of the Contract, the Tender Return Date and the name of the officer to whom the Tender must be returned. A copy of the Council’s <b>“Tender Return Label”</b> can be obtained from the Council’s Intranet, and is available <a href="#">[ here ]</a>.</p>
Total Contract Cost	<p>The actual total cost of the Contract at the end of the Contract Period, after any Contract Extensions have been applied.</p>
Total Contract Value	<p>The total value of the Works, Services, and/or Supplies over the Contract Period, including all potential Contract Extensions to the initial Contract Period.</p>
Works	<p><i>(According to Volume 1 of the EU Public Procurement: Law and Practice)</i> means the outcome of building or civil engineering works taken as a whole, which is sufficient in itself to fulfil an economic or technical function.</p> <p>In relation to public contracts, means matters which have as their object any one of the following:</p> <ul style="list-style-type: none"> <li>(a) The execution, or both the design and execution, of works related to one of the activities listed in Schedule 2 to the Public Contracts Regulations 2015;</li> <li>(b) The execution, or both the design and execution, of a work; and/or</li> <li>(c) The realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority “exercising a decisive influence on the type or design of the work”.</li> </ul>

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## OFFICER EMPLOYMENT PROCEDURE RULES

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*Rev Post Opinion March 2016*

## OFFICER EMPLOYMENT PROCEDURE RULES

### A. DEFINITIONS AND RESPONSIBILITIES

#### 1. Definitions

In these rules:

- (a) "the 1989 Act" means the Local Government and Housing Act 1989;
- (b) "the 2000 Act" means the local Government Act 2000;
- (c) "*the 2011 Act*" means *the Localism Act 2011(b)*;
- (d) "*chief financial officer*", "disciplinary action", "*head of the authority's paid service*" and "*monitoring officer*" have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;
- (e) "Chief Executive" means the most senior officer of the Council in terms of managerial status and may include any person designated as Head of Paid Service pursuant to s4 of the Local Government and Housing Act 1989 and Deputy Chief Executive shall be construed accordingly;
- (f) "Chief Financial Officer" means the individual who has responsibility for financial administration pursuant to and for the purposes of s151 of the Local Government Act 1972;
- (g) "Chief Officer" means
  - (i) Chief Executive, ~~Director of Communities, Director of Governance, Director of Neighbourhoods, Director of Resources~~;
  - (ii) Further for the purposes of these Rules alone the Chief Financial Officer and Monitoring Officer, Deputy Financial Officer and Deputy Monitoring Officer are included within the definition of Chief Officer;
  - (iii) Further this definition will also include any post which is subsequently created to these Rules and whose terms of appointment expressly state that these Rules will apply as if to a Chief Officer.
- (h) "Executive" and "Executive Leader" have the same meaning as in Part 1A of the 2000 Act;
- (i) "Member of Staff" means a person appointed to or holding a paid office or employment under the authority;
- (j) "Pro Rata Rules" mean the principles set out in s15 of the 1989 Act;
- (k) "Proper Officer" means an officer appointed by the authority for the purposes of the relevant provisions in these Rules;
- (l) "The Rules" means the Officers Employment Rules;
- (m) "independent person" means a person appointed under section 28(&) of the 2011 Act;

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

## **2. Responsibility for Appointment, Dismissal and Disciplinary Action**

2.1 Save as otherwise provided for by these Rules and subject to the exceptions in sub paragraphs 2.2 and 2.3 below, the function of appointment and dismissal of, and taking disciplinary action against, a Member of Staff of the authority must be discharged, on behalf of the authority, by the Chief Executive or by a Member of Staff nominated by him.

2.2 The exceptions referred to in sub paragraph 2.1 are as follows:

(a) the Chief Officers of the Council as defined above; and

(b) any person appointed in pursuance of Section 9 of the 1989 Act (assistants for political groups).

2.3 Nothing in paragraph 2.2 above shall prevent a person from serving as a member on any panel, committee or sub-committee established by the authority to consider an appeal by:

(a) another person against any decision relating to the appointment of that other person as a Member of Staff of the authority; or

(b) a Member of Staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that Member of Staff.

## **B. RECRUITMENT**

### **3. Recruitment and Appointment – General Requirements**

#### **3.1 Declarations**

3.1.1 The Council will draw up a statement requiring any candidate for appointment as a Member of Staff to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or Member of Staff of the Council; or of the partner of such persons.

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

### **3.2 Seeking Support for Appointment**

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

### **4. Recruitment of Chief Officers**

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

### **5. Appointment of Chief Executive**

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

### **6. Appointment of other Chief Officers.**

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

## **7. Appointments of Assistants to Political Groups**

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

## **8. Objection by the Executive – Appointment of Chief Officers**

- 8.1 In relation to any proposed appointment for any Chief Officer post an offer of appointment should not be made until the Proper Officer has been notified of the name of the person that is proposed is to be offered such position and any other particulars which are considered to be relevant to the appointment and the Proper Officer has notified every member of the Executive of the authority of:

(a) the name of the person to whom it is proposed to make the offer;

(b) any other particulars relevant to the appointment which have been notified to the Proper Officer; and

(c) the period within which any objection to the making of the offer is to be made by the Executive Leader on behalf of the executive to the Proper Officer; and

- 8.2 Upon such notification having been made then the appointment will only be offered if:

(a) the Executive Leader has, within the period specified above notified the appropriate appointment panel or individual that neither he nor any other member of the Executive has any objection to the making of the offer;

(b) the Proper Officer has notified the appropriate appointment panel, that no objection was received by him within that period from the Executive Leader; or

(c) the relevant appointment panel is satisfied that any objection received from the Executive Leader within that period is not material or is not well founded.

## **C. DISCIPLINARY ACTION**

### **9. Disciplinary Action**

#### **9.1 Suspension**

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

- 9.1.2 The Chief Executive, in consultation with the Monitoring Officer and the Chief Financial Officer as appropriate, shall have delegated authority to suspend a Chief Officer where, in his/her opinion the presence at work of the Chief Officer concerned could compromise an investigation of any alleged misconduct, for a maximum period of 10 working days. Any decision to suspend any Chief Officer for a longer period shall be taken by a Panel of councillors comprising not less than seven Councillors allocated between political groups in accordance with the pro rata rules and convened within the 10 day period of the temporary suspension.

- 9.1.3 The Leader of the Council, in consultation with the Monitoring Officer and the Chief Financial Officer, shall have delegated authority to suspend the Chief Executive for a maximum period of 10 working days where, in his/her opinion the presence at work of the Chief Executive could compromise the investigation of any alleged

misconduct. Any decision to suspend the Chief Executive for a period of more than 10 working days up to a maximum of 2 months shall be made by a Panel of not less than 7 Councillors allocated between political groups in accordance with pro rata rules.

9.1.4 Any assistant to a political group may be suspended by the leader of that political group.

9.1.5 Any suspension will be on full pay and for a period of not more than two months ~~save as provided for in 9.2.2 below~~ and shall be kept under constant review.

## **9.2 Dismissal**

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

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

## **9.3 Councillors**

9.3.1 Councillors will not be involved in the disciplinary action against any member

of staff below Chief Officer level, (except relevant officers referred to in paragraph 1(q)) except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time or as otherwise provided for by these Rules.

9.3.2 Other Councillors may participate in such proceedings where there is a right of appeal to members in respect of disciplinary action.

## **10. Disciplinary Panels**

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

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

(i) such dismissal is in accordance with any recommendation made in the report produced by the Panel referred to in paragraph 9.2.1 above;

and

(ii) the procedure referred to in paragraph 11 below has been complied with.

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

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

## **11. Objection by the Executive - Dismissal**

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

(a) the name of the person it is proposed to dismiss;

(b) the reasons for the proposed dismissal;

(c) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the Proper Officer.

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

(a) the Executive Leader has, within the period specified above notified the panel proposing to dismiss that neither he nor any other member of the Executive has any objection to the proposed dismissal;

(b) the Proper Officer has notified the panel that no objection was received by him within that period from the Executive Leader; or

(c) the relevant panel is satisfied that any objection received from the Executive Leader within that period is not material or is not well founded.

## **12. Redundancy Procedures**

12.1 The Epping Forest District Council Redundancy and Redeployment Policy and Procedure does not apply to Chief Officers. However the principles referred to within that policy will be adhered to so far as is appropriate when considering a potential redundancy situation affecting any individuals who hold any of the above posts and whether to dismiss any such person. The Epping Forest District Council Policy for Redundancy and/or Early Retirement shall apply in full to Chief Officers.

12.2 A panel of members comprising not less than seven councillors allocated between political groups in accordance with Pro Rata Rules including at least one member of the Executive will consider whether any persons holding any post referred to in 12.1 above shall be made redundant when it appears there is a need to consider such matters (“the Redundancy Panel”).

12.3 The Redundancy Panel will, in addition to any other steps that appear to them to be appropriate as referred to in the Redundancy and Redeployment Procedure, be responsible to ensure that:

(a) any individuals that may be affected by any decisions relating to redundancy are informed at an early stage of the fact that they may so be affected and the reasons for this. Thereafter any such individuals should be kept informed of relevant information pertaining to the redundancy decision making process as it continues.

(b) individuals are meaningfully consulted during the redundancy process and, in particular, sufficient information is given to them such as to enable them to understand why such redundancies are being considered and an opportunity is given to those individuals to comment on such information and make alternative proposals with a view to avoiding redundancy.

(c) that consideration is given to whether any alternative positions may be available to the affected individuals.

The Redundancy Panel shall ensure that notification is given to the Executive of any proposed decision to dismiss by reason of redundancy in accordance with paragraph 11 above. Such notification is to be made before the Redundancy Panel notifies the individual concerned that it is proposed to recommend to the Council to make that individual redundant in accordance with paragraph 12.5 below.

12.4 If the Redundancy Panel decides that a notice of redundancy should be issued to any individual then it should inform the individual concerned of its intention to recommend the Council to do so and inform that individual that they have a right to appeal and the Panel should set a reasonable period for the individual to make such an appeal.

- 12.5 If the individual does not appeal within the set timescale then the full Council will approve the dismissal of the individual concerned following the recommendation of the Redundancy Panel.
- 12.6 If the individual does appeal within the set timescale then a Redundancy Appeal Panel will be appointed which will consist of not less than seven councillors, drawn from political groups in accordance with Pro Rata Rules and including at least one member of the Executive, who will hear and adjudicate upon the appeal.
- 12.7 If the appeal is dismissed then the full Council will approve the dismissal of the individual concerned following the recommendation of the Redundancy Appeal Panel.

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# Part 5

## Codes and Protocols

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# **Epping Forest District Council**

## **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 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. 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 than 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, 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**

- (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) 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 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 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 affect 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) 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

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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# Part 6

## Scheme of Allowances

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## SCHEME OF MEMBERS' ALLOWANCES - STATEMENT CONCERNING IMPLEMENTATION 2016/17

**The following scheme has been agreed for the period  
26 May 2016 to 24 May 2017**

The Council decided at its meeting on 15 December 2015 to implement the amount of Basic, Special Responsibility and Co-optees Allowances provided in the scheme as set out below:

BASIC ALLOWANCE	ANNUAL BASIC ALLOWANCE	IMPLEMENTATION OF BASIC ALLOWANCE
All Councillors	£4,300.00	£4,300.00

The amounts set out below show the amounts of Special Responsibility Allowance (SRA) payable during the year:

DUTY	ANNUAL SPECIAL RESPONSIBILITY ALLOWANCE	IMPLEMENTATION OF SPECIAL RESPONSIBILITY ALLOWANCE
Leader of the Council	£10,750.00	£7,875.00 (73%)
Cabinet members	£6,450.00 (each)	£6,300.00 (each) (98%)
Chairman of the District Development Management Committee	£3,225.00	£2,362.00 (73%)
Chairmen of the Area Plans Sub-Committees (3)	£3,225.00 (each)	£2,362.00 (each) (73%)
Chairman of the Overview and Scrutiny Committee	£4,300.00	£3,150.00 (73%)
Chairman of the Licensing Committee	£500.00	£500.00
Chairmen of the Licensing Sub-Committees (6)	£2,725.00 (allocated according to the number of meetings each year)	£1,862.00 (allocated according to the number of meetings each year) (73%)

Chairman of the Housing Appeals and Review Panel	£110.00 (per meeting)	£110.00 (per meeting)
Chairman of the Staff Appeals Panel	£110.00 (per meeting)	£110.00 (per meeting)
Chairman of the Audit and Governance Committee	£2,150.00	£2,150.00
Chairmen of the Select Committees (4)	£2,150.00	£2,150.00 (each)
Chairman of the Standards Committee	£500.00	£500.00
Chairman of the Constitution Working Group	£500.00	£500.00

**The amounts payable during the year for independent and co-opted members are:**

Independent Persons affiliated to the Standards Committee	£250.00
Independent Members of the Remuneration Panel and Parish Remuneration Panel	£250.00
Co-opted members of the Audit and Governance Committee	£500.00
Co-opted independent members of an Overview and Scrutiny Committee	£500.00

**A copy of the full scheme is available on request from Democratic Services, Civic Offices, High Street, Epping, CM16 4BZ.**

# **MEMBERS' ALLOWANCES SCHEME**

## **EPPING FOREST DISTRICT COUNCIL - REMUNERATION AND EXPENSES SCHEME**

The Epping Forest District Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) Regulations 1990 and the Local Authorities (Members' Allowances) (England) Regulations 2001, hereby makes the following scheme:

### **1. Scheme**

- 1.1 This scheme may be cited as the Epping Forest District Council Members' Allowance Scheme and shall have effect for the period from 26 May 2016 to 24 May 2017.

### **2. Definition**

- 2.1 In this scheme:

**"business mileage"** means mileage incurred for journeys by Councillors between their homes and business venues or between the Civic Offices, Epping and business venues;

**"Councillor"** means a member of the Epping Forest District Council who is a Councillor;

**"home to office mileage"** means mileage incurred for journey by Councillors between their homes and the Civic Offices in Epping;

**"independent person"** means (a) a member of the Standards Committee who is not an elected councillor or (b) a co-opted member of an Overview and Scrutiny Committee or the Audit and Governance Committee who is not an elected councillor; and

**"year"** means the period ending with 24 May 2017.

### **3. Basic Allowance**

- 3.1 Subject to Paragraph 7, £4,300 shall be paid to each Councillor. Payments are subject to deductions for tax and national insurance dependant on the circumstances of individual councillors.

### **4. Special Responsibility Allowances**

- 4.1 For each year a special responsibility allowance shall be paid to those Councillors who hold the special responsibilities in relation to the allowances specified in Schedule 1 to this scheme. Special responsibility allowances shall be calculated as multipliers of the Basic Allowance. There is no restriction on the number of separate SRA's which are payable to an individual member.
- 4.2 Subject to Paragraph 7, the amount of each allowance shall be the amount specified against that special responsibility in Schedule 1 for the year.
- 4.3 The Council has decided not to implement payment of the full Special Responsibility Allowance amounts and to restrict these to a percentage of each allowance as set out in an annual statement of implementation.

## **5. Travelling and Subsistence (including Cycle Allowance)**

- 5.1 These expenses may be claimed by members of the Council in connection with the carrying out of approved duties specified in Schedules 2, 3 and 4 of this scheme.
- 5.2 Payments may be claimed up to the maximum casual user rate set for officers of the Council as adjusted annually by the National Joint Council for Local Government Services (travel expenses) and the East of England Regional Assembly (subsistence expenses).
- 5.3 Payment of home to office car mileage will be subject to deduction of tax and national insurance contributions, dependant on the circumstances of individual councillors. Business mileage incurred by councillors will not be subject to such deductions if the mileage rate claimed does not exceed 45 pence per mile.

## **6. Child Care and Dependant Carers' Allowances**

- 6.1 The maximum rate for this allowance shall be set at a rate equivalent to the National Living Wage to be introduced in April 2016, which will commence at £7.20 per hour.
- 6.2 A member of the Council or and independent person shall be eligible to claim up to four hours of the allowance for the performance of approved duties under this scheme and for the purpose of contributing to the cost of providing personal care to immediate dependants who are in need of care and supervision.
- 6.3 The rate applicable shall be subject to automatic increases on an annual basis in line with uprating of the National Living Wage.
- 6.4 The allowance is not payable in respect of carers who are members of the member's immediate and close family i.e. parents, children, spouses, co-habitees or members of the same household as the member.
- 6.5 All claims shall be subject to Audit checks and no claim in excess of the maximum level will be payable, whatever the circumstances.

## **7. Renunciation**

- 7.1 A councillor or independent person may by notice in writing given to the Director of Governance, elect to forego any part of his/her entitlement to an allowance under this scheme.

## **8. Part-year Entitlements**

- 8.1 The provisions of this paragraph shall have the effect of regulating the entitlements of a councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that councillor becomes, or ceases to be, a councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.
- 8.2 If an amendment to this scheme changes and the amount to which a councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods:
  - (a) beginning with the year and ending with the day before that on which the first amendment in that year takes effect; or

- (b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the end of the year; and
  - (c) the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.
- 8.3 Where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which his term of office subsists bears to the number of days in that year.
- 8.4 Where this scheme is amended as mentioned in sub-paragraph (2), and the term of office of a councillor does not subsist throughout the period mentioned in such-paragraph (2)(a), the entitlement of any such councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole of the same proportion as the number of days during which his term of office as a councillor subsists bears to the number of days in that period.
- 8.5 Where a councillor has during part of, but not throughout a year such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of that allowance as bears to the whole of the same proportion as the number of days during which he/she has such special responsibilities, bears to the number of days in that year.
- 8.6 Where this scheme is amended as mentioned in sub-paragraph (2), and a councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph (2)(a) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

## **9. Claims and Payments**

- 9.1 Payments shall be made in respect of basic and special responsibility allowances, subject to subparagraph (2), in instalments of one quarter of the amount specified in this scheme.
- 9.2 Where a payment of one-quarter of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the councillor receiving more than the amount to which by virtue of paragraph 8(1), he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.
- 9.3 Claims must be made within a period of one year of the duty being carried out. Payments after that period will only be made in exceptional circumstances.

## **10. Uprating for Inflation**

10.1 There will be no inflationary adjustment to the allowances set out in this scheme, except those relating to travel and subsistence.

## **11. Co-optees' Allowance**

11.1 Co-optees' allowance will be payable to independent persons as set out in Schedule 5 to this scheme.

## **12. Withholding/Recovery of Payments**

12.1 Where any councillor or independent member has already received a payment in respect of any period during which they have been:

- (a) ceased to be a member of the Authority; or
- (b) not entitled in any other way to receive the allowance in respect of that period, the Council may require that such part of the allowance as relates to the period in question shall be repaid to the Authority.

## **13. Pensionable Status**

13.1 Remuneration payable to councillors of Epping Forest District Council under this scheme shall only be entitled to pensionable status in accordance with a scheme made under Section 7 of the Superannuation Act 1972, if the member opted in to the Essex Superannuation Scheme before 1 April 2014.

13.2 For the purposes of a Paragraph 13.1 above basic allowance and special responsibility allowance will be treated as amounts in respect of which such pensions are payable in accordance with a scheme under that Act.

13.3 The Local Government Pension Scheme (LGPS) (Transitional Provisions, Savings and Amendment) Regulations 2014 removed access to the LGPS for Councillors from 1 April 2014, with the exception of those who were members of the Scheme on 31 March 2014, who retain access to the LGPS up to the end of their current term of office only (or to age 75 if earlier).

## **14. Further Guidance**

14.1 Further guidance on this scheme can be found in Appendix 1.

## SCHEDULE 1

### SPECIAL RESPONSIBILITY ALLOWANCES

1. The following are specified as the special responsibilities in respect of which special responsibility allowances are payable and the amounts of those allowances.

<b>DUTY</b>	<b>ANNUAL TOTAL AMOUNT OF SRA</b>
Leader of the Council	£10,750.00
Cabinet members (9)	£6,450.00 (each)
Chairman of the District Development Management Committee	£3,225.00
Chairmen of the Area Plans Sub-Committees (3)	£3,225.00 (each)
Chairman of the Overview and Scrutiny Committee	£4,300.00
Chairman of the Licensing Committee	£500.00
Chairmen of the Licensing Sub-Committees (6)	£2,225.00 (allocated according to the number of meetings chaired each year)
Chairman of the Housing Appeals and Review Panel	£110.00 per meeting held each year
Chairman of the Staff Appeals Panel	£110.00 per meeting held each year
Chairman of the Audit and Governance Committee	£2,150.00
Chairmen of the Select Committees (4)	£2,150.00 (each)
Chairman of the Standards Committee	£500.00
Chairman of the Constitution Working Group	£500.00

## SCHEDULE 2

### APPROVED DUTIES

1. The following are specified as an approved duty for the purpose of the payment of travelling and subsistence expenses, attendance at any of the following:
  - (a) a meeting of the authority, the Cabinet, a Cabinet Committee, the Overview and Scrutiny Committee and its Panels, the Standards Committee and its Sub-Committees, or as a member of any other Committee or sub-committee, panel, working group, special committee or board of the authority;
  - (b) any other meeting held by the Authority provided that:
    - where the authority is divided into two or more political groups, it is a meeting to which members of at least two such groups have been invited; or
    - if the authority is not so divided, it is a meeting to which at least two members of the authority have been invited;
  - (c) duties relating to the supervision of tender opening as required by the Council's Standing Orders;
  - (d) attendance as representative of the Council at any approved conference or meeting of the outside organisations set out in Schedules 3 and 4;
  - (e) attendance at any meeting or other official function at the request of the Chief Executive, Deputy Chief Executive or a Service Director including meetings between group representatives for a particular Committee and officers;
  - (f) any other duty approved by the Council or the Cabinet or any other committee, sub-committee, special committee or Board or Panel or any duty of a class so approved, for the purpose of, or in connection with, the discharge of functions or the body, or of any of its committees or sub-committees;
  - (g) attendance by a councillor at a meeting of which he or she is not a member for the purpose of explaining a motion referred from the Council;
  - (h) attendance as a councillor at the invitation of the Local Government Commissioner for Administration for the purpose of investigating a complaint against this Council of maladministration;
  - (i) attendance as an appointed representative of Epping Forest District Council at any meeting of Essex County Council or any of its committees or sub-committees for the purpose of formal consultations on any matter affecting the powers or duties of this Council or the district or any part thereof;
  - (j) attendance on behalf of the Council or the Cabinet or as a Chairman on behalf of a Committee at an official function;
  - (k) attendance at seminars and training courses arranged by the authority;
  - (l) consultation meetings arranged by the authority where the member's attendance is required or where the business directly affects the member's ward;

- (m) site visits arranged by Area Plans Sub-Committees or the District Development Management Committee;
  - (n) informal site visits by individual councillors in respect of their duties as members of an Area Plans Sub-Committee;
  - (o) attendance at a meeting concerning joint working or partnership arrangements to represent the Council's interests; and
  - (p) attendance at any civic event to which the Chairman or Vice-Chairman is attending in that capacity (or representative) for which Council funded transport is not provided.
2. There is specified as an approved duty for the purpose of paying travelling and subsistence expenses attendance at any of the outside organisations shown in Schedule 4.
  3. Attendance by members of the Council at meetings of outside organisations not shown in Schedule 4 shall NOT qualify for payment of travelling and subsistence expenses.

### **SCHEDULE 3**

#### **CONFERENCE AND MEETINGS**

Conference and meetings organised by any person or body who is not doing so by way of trade nor whose objects are wholly or partly political, attendance at which is authorised by or on behalf of the authority and which does not involve an absence overnight from the councillors normal place of residence.	Appropriate subsistence and travelling expenses (second class return rail fare or car mileage at the appropriate rates whichever is the less if travel outside the Epping Forest District is required).
Conferences and meetings organised by any person or body who is not doing so by way of trade, nor whose objects are wholly or partly political, attendance at which is authorised by or on behalf of the authority and which involves an absence from the councillor's normal place of residence of one or more nights.	Appropriate subsistence and travelling expenses (second class return rail fare or car mileage at the appropriate rate whichever is the less if travelling outside the Epping Forest District is required).

### **SCHEDULE 4**

#### **OUTSIDE ORGANISATIONS**

Attendance as appointed representative of the Council on any outside organisations, such attendances being deemed approved duty for the purpose of paying subsistence and travelling expenses.

**SCHEDULE 5**

**CO-OPTEEES' ALLOWANCE**

Independent Persons affiliated to the Standards Committee	£250 per annum
Independent Members of the Remuneration Panel and Parish Remuneration Panel	£250 per annum
Co-opted members of the Audit and Governance Committee	£500 per annum
Co-opted independent members of an Overview and Scrutiny Committee	£500 per annum

**MEMBER REMUNERATION SCHEME**

**EPPING FOREST DISTRICT COUNCIL  
GUIDANCE NOTE ON ALLOWANCES AND EXPENSES FOR MEMBERS**

**1. INTRODUCTION**

- 1.1 A Councillor is eligible for the payment of attendance allowances and for reimbursement of travel and subsistence expenses in respect of approved duties carried out on behalf of the Council. An approved duty is one which has been authorised by or on behalf of the Council in advance.
- 1.2 The Council has a formal scheme for allowances which is updated from time to time. A copy of the scheme is set out in the Constitution. This note is of a more informal nature and is designed to assist members in dealing with their claims and explaining the arrangements to the public.

**2. BASIC ALLOWANCE**

- 2.1 This is a flat rate allowance payable to all members of the Council. This annual amount is paid in quarterly instalments. Members do not have to claim this amount. The Council has decided not to implement payment of the full Basic Allowance amount and to restrict this to (currently) £3,435.00 per member per annum, representing 80% of the Basic Allowance.
- 2.2 The Council requires each of its elected councillors to be registered as a data controller in accordance with the provisions of the Data Protection Act 1998. Although members are responsible for their individual compliance with the data protection principles of the Act, the Council coordinates the registration (and annual renewal) process on behalf of members and an amount of £35.00 is therefore withheld from the Basic Allowance each year to meet the registration fee imposed by the Information Commissioner.

**3. SPECIAL RESPONSIBILITY ALLOWANCE**

- 3.1 This is a special allowance payable to the Leader, Cabinet members and certain Chairmen. It is designed to reflect the additional responsibilities of these office holders. This amount is paid in quarterly instalments during the year and does not have to be claimed.
- 2.3 The Council has decided not to implement payment of the full Special Responsibility Allowance amounts and to restrict these to a percentage of each allowance set out in the Scheme.

**4. TRAVEL EXPENSES**

- 4.1 Members may re-claim reasonable travel expenses (including public transport tickets, taxi fares, parking costs where appropriate subject to submission of evidence of expenditure) in respect of approved duties as defined in the scheme (Schedule 2).

### **Car Travel**

- 4.2 The normal rates for car travel are the same as the higher rates paid to officers classed as casual users. Claims must be fixed on the rates applicable at the time of the journey. These rates are set out on the claim form and are reviewed annually.

### **Shortest Distance**

- 4.3 Claims for car travel should be by reference to the shortest distance from home to the Council offices or other venue for the approved duty concerned. No claim for additional expenses will be entertained unless there is a valid reason for incurring the additional mileage.

### **Travel Direct from Place of Employment etc**

- 4.4 For claims involving direct travel from a Councillor's place of employment (or other departure point) for an approved duty, the distance claims shall be limited to the home to meeting venue element of the journey. All such claims must be endorsed "CLAIM LIMITED" on the form.

### **Travel outside the District – Limit on Amount Claimable**

- 4.5 For journeys to approved meetings outside the District or by members resident outside the district, claims irrespective of mode of travel must not exceed the lower of:
- (a) second class return rail fare plus underground and other fares from station to destination at each end of the journey; or
  - (b) the appropriate car mileage.

- 4.6 This is subject to consideration of any special circumstances as set out in 4.7 below.

### **Travel over Long Distances – Special Circumstances**

- 4.7 If, for any reason, a councillor undertakes travel over long distances or from outside the District, members are advised to contact the Assistant to the Chief Executive in advance for advice on what would constitute a reasonable claim in the circumstances.

### **Use of Public Transport within Epping Forest District**

- 4.8 The rate for travel by public transport must not exceed the ordinary fare (or any available cheap fare). A member may not claim travelling expenses in respect of a single duty from more than one body. In all such claims evidence of expenditure (i.e. tickets or other receipts) MUST be provided. No claim will be allowed without such evidence.

### **Cycle Allowance**

- 4.9 This allowance is payable at the highest of the higher casual rates paid to officers classed as casual users.

### **Child and Dependant Carer's Allowance**

- 4.10 This allowance may be claimed at a rate equivalent to the current rate for the National Living Wage. Certain conditions are set out in the Scheme.

## **5. SUBSISTENCE EXPENSES**

- 5.1 Subsistence expenses (covering refreshments and meals etc paid for by a member) are claimable by councillor in respect of making attendances connected with approved duties on behalf of the Council. The rates for such expenses are set out (by reference to meal time and periods of absence) on the reverse of the form which is supplied to members on a quarterly basis. These rates may not be exceeded. Periods of absence will be calculated on the basis of departure from home or place of work if it is not possible to return home in the time available.
- 5.2 All claims for subsistence must be accompanied by receipts in respect of meals etc as evidence of expenditure actually having been incurred. No claims will be allowed in the absence of such evidence.
- 5.3 Special arrangements exist in respect of subsistence expenses in respect of duties involving an absence overnight from a councillor's normal place of residence. These are outlined under Section 7 relating to conferences.
- 5.4 A Councillor may not claim subsistence expenses in respect of a single duty from more than one body.

## **6. CONFERENCES**

- 6.1 Attendance at Conferences and payment of allowances and expenses are subject to prior approval by the Council, Cabinet, appropriate committee, Leader or Deputy Leader in all cases.
- 6.2 All conferences deemed to be approved duties shall, in accordance with statutory requirements, be relevant to the District and not wholly or partly commercial or political in their objectives.

### **Allowances for Attendance at Conferences (Involving an Absence from Home)**

#### **Subsistence - Nights Away from Home**

- 6.3 For conferences involving one or more night's absence, claims can be made for reasonable day or overnight expenses that are necessarily and exclusively incurred in the attendance as an authorised representative of the Council at a meeting, conference or seminar that it held outside of the Epping Forest District.

#### **Claims for Subsistence**

- 6.4 These claims should cover such items as hotel bills, refreshments, meals (other than free meals which should be discounted) and similar items. No claims will be allowed unless evidence is provided of all expenditure being claimed. All relevant bills and receipts should be forwarded to the Assistant to the Chief Executive with claims.

#### **Travel Claims**

- 6.5 The guidance outlined under paragraph 4.5 will apply to all conferences.

## **7. TAXATION AND NATIONAL INSURANCE IMPLICATIONS**

- 7.1 Details of the tax and national insurance implications of allowance payments and expenses claimed are available through Democratic Services. In such matters, members are advised to seek advice from their tax office in the event of any concerns.

7.2 Supplementary Note Regarding Treatment of Claims for Travel Expenses by Car for Tax and National Insurance Purposes.

**(a) Travel by Car – Councillors’ Homes to Civic Offices Expenses (“Home to Office Mileage”)**

7.3 Her Majesty’s Revenue & Customs (HMRC) deems a councillor’s workplace for the purposes of their role as an elected representative to be the Civic Offices, Epping and therefore that such expenses are subject to tax and national insurance deductions.

**(b) Travel by Car – Councillors’ Homes to Other Venues or Civic Offices to Other Venues for the Purposes of Council Business (“Business Mileage”)**

7.4 HMRC has determined that such travel shall not be subject to tax or national insurance deductions except where the rate of reimbursement exceeds 45 pence per mile. Travel to any meetings of the Council or its subordinate bodies which are held at a location other than the Civic Offices is deemed to be business mileage.

**(c) Second Journeys**

7.5 Second journeys will be subject to taxation and National Insurance deductions depending on whether the journey constitutes home to office or business mileage.

**8. ALTERATION OF CLAIMS**

8.1 All claim forms submitted by members are checked by Democratic Services. The Director of Governance (or the Assistant Director (Governance and Performance Management) acting on his/her behalf) is authorised to reduce incorrect claims in the following circumstances:

- (a) where a member does not attend at a claimed meeting;
- (b) where a claimed meeting is not approved;
- (c) where an incorrect amount of allowance is claimed; and
- (d) where a correct date has not been claimed.

8.2 Any changes under paragraph 8.1 will be notified to members after the claim form has been processed. Any other problems with members’ claims will be referred back for the claimant and processing of the claim will not take place until the query has been clarified.

**9. INTERPRETATION**

9.1 These guidelines are subject to the overall interpretation of the Chief Executive as to what constitutes a reasonable claim in any individual circumstances.

**10. DOCUMENT HISTORY**

<b>Prepared/Revised</b>	<b>Written by</b>	<b>Agreed/Authorised</b>	<b>Details of Change(s)</b>
November 2015	S. Tautz (Democratic Services Manager)	Remuneration Panel (17/11/15) Council (15/12/15)	Review of Scheme for 2016/17 municipal year

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