

ROCHFORD DISTRICT COUNCIL



CONSTITUTION

CONSTITUTION OF THE COUNCIL

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PART 1

SUMMARY AND EXPLANATION

1. Summary and Explanation

- 1.1 The Local Government Act 2000 requires the Council to prepare, keep up-to-date and publicise a document known as the Constitution. The Constitution sets out how the Council operates, how decisions are made and the procedures followed to ensure that these are efficient, transparent and accountable to local people. Some processes within the Constitution are required by the law, while others are a matter for the Council to choose.
- 1.2 The Constitution is divided into 15 articles that set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

2. What's in the Constitution?

- 2.1 Article 1 of the Constitution commits the Council to provide clear leadership, involve residents and take decisions and deliver services efficiently and effectively to the community. Articles 2 – 15 explain the rights of residents and how the key parts of the Council operate. These are:-
- Members of the Council (Article 2).
 - Residents and the Council (Article 3).
 - The Council Meeting (Article 4).
 - Chairing the Council (Article 5).
 - Overview & Scrutiny Committee (Overview and Scrutiny of Decisions) (Article 6).
 - The Executive (Article 7).
 - Regulatory and Other Committees (Article 8).
 - The Standards Committee (Article 9).
 - Joint Arrangements (Article 10).
 - Officers (Article 11).
 - Decision Making (Article 12).
 - Finance, Contracts and Legal Matters (Article 13).
 - Review and Revision of the Constitution (Article 14).
 - Suspension, Interpretation and Publication of the Constitution (Article 15).

3. How the Council Operates

- 3.1 The Council is composed of 39 Councillors, with one-third elected three years in four. 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 constituents, including those who did not vote for them. Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Council has a Standards Committee that offers advice and training on these matters.

4. Decision Making

- 4.1 All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council decides on all major policies affecting the District and the services the Council provides. It also appoints the Executive Leader, sets up Committees and is the final arbiter in any differences between them.
- 4.2 The Executive is the part of the Council responsible for most day-to-day decisions. The Executive comprises the Leader and a Board of up to 9 other Councillors whom he/she appoints. When major decisions are to be discussed or made, these are published in the Executive's Key Decisions Document so far as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Executive, this will generally be open for the public to attend, except where personal or confidential matters are being discussed. The Executive has to make decisions in line with the Council's overall policies and budget. If the Executive wishes to make a decision that is outside the budget or policy framework, the matter must be referred to the Council as a whole to decide.
- 4.3 A number of Committees carry out specific regulatory functions: a Development Committee, a Standards Committee, an Audit Committee, a Licensing and Appeals Committee.
- 4.4 The Council is increasingly working in partnership with other agencies to deliver its Community Strategy and the roles and responsibilities of Councillors will continue to develop outside the formal Committee structure in line with this partnership agenda.
- 4.5 Meetings of the Council's Committees are open to the public except where personal or confidential matters are being discussed.

5. Overview and Scrutiny Committee

- 5.1 The Overview & Scrutiny Committee carries out a supportive and investigative role, overseeing and scrutinising the work of the Executive, other Committees and the Council as a whole. This Committee allows residents to have a greater say in Council matters by holding inquiries in public into matters of local concern. This can lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. The Overview & Scrutiny Committee also monitors the decisions of the Executive. It can 'call-in' a decision that has been made by the Executive but which has not yet been implemented.

This enables it to consider whether the decision is appropriate. It may recommend that the decision-making body or Full Council re-considers the decision. The Overview & Scrutiny Committee may also be consulted by the Executive on forthcoming decisions and the development of policy.

6. The Council's Staff

- 6.1 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.

7. Residents' Rights

- 7.1 Residents 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.
- 7.2 Where members of the public use specific Council services they may have additional contractual rights. These are not covered in this Constitution.
- 7.3 Residents have the right to:-
- Vote at local elections if they are registered;
 - Contact their local Councillor about any matters of concern to them;
 - Obtain a copy of the Constitution;
 - Attend meetings of the Council and its Committees and the Executive when key decisions are to be taken, except where, for example, personal or confidential matters are being discussed;
 - Petition to request a referendum on a Mayoral form of Executive;
 - Participate in the Council's question time and contribute to investigations by the Overview & Scrutiny Committee;
 - See Council, Executive and Committee reports and background papers, and any record of decisions made by the Council, the Executive and their Committees;
 - Complain to the Council when dissatisfied with a service provided or action taken by the Council or on its behalf by a contractor;
 - Complain to the Ombudsman if they think the Council has not followed its procedures properly. However, 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; and
 - Inspect the Council's accounts and make their views known to the external auditor.
- 7.4 The Council welcomes participation by its residents in its work. For further information on your rights as a resident, please contact Member Services, Council Offices, South Street, Rochford, SS4 1BW; Telephone 01702 546366; email memberservices@rochford.gov.uk. Further information is also available on the Council's website at www.rochford.gov.uk

PART 2

ARTICLES OF THE CONSTITUTION

Article 1 – The Constitution

1.01 **Powers of the Council**

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

1.02 **The Constitution**

This Constitution, and all its appendices, is the Constitution of the Rochford District Council.

1.03 **Purpose of the Constitution**

The purpose of the Constitution is to:-

1. enable the Council to provide clear leadership to the community in partnership with residents, businesses and other organisations;
2. support the active involvement of residents in the process of local authority decision making;
3. help Councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no-one will review or scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the delivery of services to the community.

1.04 **Interpretation and Review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

Article 2 – Members of the Council

2.01 **Composition and Eligibility**

- (a) **Composition.** The Council will comprise 39 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 and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the District or those living or working there will be eligible to hold the office of Councillor.

2.02 **Election and Terms of Councillors**

Election and Terms. The regular election of at least one third of Councillors will generally be held on the first Thursday in May each year (for three out of four years, with the County Council elections being held on the fourth year). The terms of office of Councillors, subject to them making a declaration of office, will start on the fourth day after their election and will finish on the fourth day after the date of the regular election four years later.

2.03 **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) contribute to the good governance of the area and actively encourage community participation and residents' involvement in decision-making;
 - (iii) effectively represent the interests of their ward and of individual constituents;
 - (iv) respond to constituents' enquiries and representations, fairly and impartially;
 - (v) participate in the governance and management of the Council; and
 - (vi) 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 that 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 the Access to Information Rules in Part 4 of this Constitution.

2.04 **Conduct**

Councillors will at all times observe the Members' Code of Conduct and have proper regard for the Code of Conduct on Planning Matters and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

2.05 **Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

2.06 **Training**

The Council will ensure that Councillors have the opportunity for adequate training for their roles and duties.

Article 3 – Residents and The Council

3.01 Residents' Rights

Residents have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:-

- (a) **Voting and Petitions.** Residents on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected Mayor form of Constitution. The Council's petitions scheme (Part 5, page 5.31) enables residents' in the District to submit a petition on an issue of concern.
- (b) **Information.** Residents have the right to:-
 - (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 when key decisions are being considered;
 - (iii) find out from the Key Decisions Document 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
 - (v) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Residents have the right to participate in the Council's question time and to contribute to investigations by the Overview & Scrutiny Committee details in Part 4.
- (d) **Complaints.** Residents 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;
 - (iii) the Council's Monitoring Officer about a breach of the Councillors' Code of Conduct.

3.02 Residents' Responsibilities

Residents must not be violent, abusive or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers.

Article 4 – The Full Council

4.01 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:-
- (i) those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) to be adopted by the Council:-
- Community Safety Partnership Action Plan
 - Development Plan documents ¹
 - Licensing Authority Policy Statement
 - Plans and alterations which together comprise the Development Plan
 - Plans or strategies for the control of the Council's borrowing or capital expenditure
 - Plans or strategies or draft plans or strategies of any of the above descriptions which have to be submitted to the Secretary of State or a Minister for approval.
- (ii) other plans and strategies of a kind recommended by guidance to be adopted by the Council as part of the Policy Framework:-
- Council's Business Plan
 - Local Code of Corporate Governance
 - Corporate Equality Policy
- (b) **Budget.** 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 decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits, but does not include the approval of supplementary estimates, the setting of fees and charges and other minor variations to budget or capital programme, so far as these are delegated to an officer, the Executive or a Committee.

4.02 Functions of the Full Council

Only the Council will exercise the following functions:-

- (a) adopting and changing the Constitution other than set out in Article 14;

¹ Functions relating to local development documents which are not development plan documents are the responsibility of the executive of an authority. Development plan documents include core strategy, site-specific allocations of land and area action plans.

- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) appointing the leader ;
- (d) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or budget where the decision-maker is minded to make it in a manner that would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (e) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them (except for authorised substitutions to Committees under Rule 1 of the Committee and Sub-Committee Procedure Rules in Part 4 of this Constitution);
- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.05 (details of which can be found under Part 6 of this Constitution);
- (h) adopting a Members' Code of Conduct;
- (i) changing the name of the district;
- (j) conferring the title of Honorary Alderman;
- (k) confirming the appointment of the Joint Head of Paid Service;
- (l) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills; and
- (m) all other matters which by law must be reserved to Council.

4.03 The Full Council is not required to approve:-

- (i) amendments or revocations of any plan or strategy necessary to give effect to the requirements of the Secretary of State or Minister made when he was asked to approve it;
- (ii) amendments or revocations to any plan or strategy if the Council has delegated the power to amend or revoke it to a Committee or Sub-Committee or officer, either in this Constitution or at the time it approved the plan or strategy.

4.04 **Council Meetings**

There are three types of Council meeting:-

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

4.05 **Responsibility for Functions**

The Council will maintain 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

5.01 Role and Function of the Chairman

The Chairman of the Council and, in his/her absence, the Vice-Chairman, will have the following roles and functions:-

CEREMONIAL ROLE

The Chairman acts in a non-political capacity as a symbol of the Authority. On civic and ceremonial occasions the Chairman represents the District and its inhabitants and fulfils the role of ambassador for the Council in its relationship with society at large.

CHAIRING THE COUNCIL MEETING

The Chairman will be elected by the Council annually. The Chairman will have the following responsibilities:-

1. to uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary;
2. to preside over meetings of the Council in an impartial fashion so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Executive or hold Committee Chairmanships are able to hold the Members of the Executive and Committee Chairmen to account;
4. to promote public involvement in the Council's activities;
5. to be the conscience of the Council; and
6. to attend such civic and ceremonial functions of the Council as he/she determines appropriate.

Article 6 Overview and Scrutiny Committee

6.01 Terms of Reference

The Council will appoint an Overview & Scrutiny Committee to overview and scrutinise decisions and to discharge the functions conferred by S21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000. The Overview and Scrutiny Committee will be titled the Overview & Scrutiny Committee and have fifteen Members or as the Council shall decide.

6.02 General Role

Within this Constitution, the Overview & Scrutiny Committee may:-

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) make reports and/or recommendations to the Full Council and/or the Executive or any Joint Committee in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants;
- (iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive.

6.03 Specific Functions

- (a) **Policy Development and Review.** The Overview & Scrutiny Committee may:-
 - (i) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
 - (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
 - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 - (iv) question Members of the Executive and other Committees, Chief Officers and Heads of Service about their views on issues and proposals affecting the area; and
 - (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
 - (vi) conduct joint reviews, as appropriate, with adjoining Councils.

- (b) **Scrutiny.** The Overview & Scrutiny Committee may:-
- (i) review and scrutinise the decisions made by and performance of the Executive, other Committees and Council officers both in relation to individual decisions and over time;
 - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
 - (iii) question Members of the Executive, other Committees and Chief 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;
 - (iv) review and scrutinise the decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions;
 - (v) make recommendations to the Executive and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
 - (vi) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview & Scrutiny Committee and local people about their activities and performance; and
 - (vii) question and gather evidence from any person (with their consent).
- (c) **Finance.** The Overview & Scrutiny Committee may be allocated funding for its role by the Council and will exercise overall responsibility for the finances made available to it.
- (d) **Annual Report.** The Overview & Scrutiny Committee must report annually to Full Council on its workings and make recommendations for future work programmes and amended working methods, if appropriate.
- (e) **Officers.** The Overview & Scrutiny Committee may exercise overall responsibility for the work programme of the officers employed to support its work.

6.04 **Proceedings of the Overview & Scrutiny Committee**

The Overview & Scrutiny Committee will conduct its proceedings in accordance with the Overview & Scrutiny Committee Procedure Rules set out in Part 4 of this Constitution.

Article 7 – The Executive

7.01 **Role**

The Executive will carry out all of the local authority's functions that are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

7.02 **Form and Composition**

The Executive will consist of the Leader, together with at least 2 but not more than 9 Councillors, appointed to the Executive by the Executive Leader.

7.03 **Leader**

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

- (a) the day when the Council holds its first annual meeting after the Leader's normal day of retirement as a Councillor or
- (b) if the Council becomes subject to whole-Council elections, the day of the annual meeting following the first whole-Council election; or
- (c) they resign from the office; or
- (d) they are disqualified; or
- (e) they are removed from office by resolution of the Council.

7.04 The Leader and any Member of the Executive may attend any Committee to which they have not been appointed by name and may speak but not vote.

7.05 **Other Executive Members**

Other Executive Members shall hold office until:-

- (a) they resign from office; or
- (b) they are disqualified; or
- (c) they are no longer District Councillors; or
- (d) they are removed from office by the Leader who must give written notice to the proper officer. The removal will take effect two working days after receipt of the notice by the proper officer.

7.06 **Proceedings of the Executive**

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

7.07 **Responsibility for Functions**

The Leader will maintain a list in Part 3 of this Constitution setting out which individual Members of the Executive, Committees of the Executive, officers or

joint arrangements are responsible for the exercise of particular Executive functions.

7.08 Failure to Attend

- (a) If a Member of the Executive fails throughout a period of 6 months from his last attendance to attend a meeting of the Executive then, unless the failure was due to some reason approved by the District Council, he or she shall cease to be a Member of the District Council.
- (b) the discharge by a Member, acting alone, of any function which is the responsibility of the Executive shall each be deemed to be attendance at a meeting of the Executive.

Article 8 – Regulatory and Other Committees

8.01 **Regulatory and Other Committees**

The Council will appoint the Committees set out in Part 3 of this Constitution to discharge the functions under each Committee therein.

A Committee can form a working group to consider a topic informally and at pace. The membership of the working group will be decided by the Committee and will not be subject to the pro rata rules nor will substitutions be allowed as continuity of membership is important. Meetings of the working group will not be held in public and all agendas and minutes will not be publicly available. The working group will report back to the parent Committee with its findings.

Article 9 - The Standards Committee

9.01 **Standards Committee**

The Council will establish a Standards Committee.

9.02 **Composition**

(a) **Membership.** The Standards Committee will be composed of:-

- Eight elected District Members appointed proportionally (of whom one Member may be a Member of the Executive nominated by the Leader of the Council).
- Three Parish Council co-opted, non-voting Members.

9.03 **Independent Persons**

The 3 Independent Persons appointed by the Monitoring Officer will be invited to attend the meetings of the Standards Committee.

9.04 **Role and Function**

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 the 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) granting dispensations under certain circumstances to Councillors and co-opted Members from requirements relating to interests set out in the Members' Code of Conduct;
- (g) dealing with written allegations that a Member or co-opted Member has failed, or may have failed, to comply with the Members' Code of Conduct set out in Part 5 following a referral from the Monitoring Officer;
- (h) determining the annual Member Training Programme.

**ADDITIONAL PARISH COUNCIL ROLE IN DISTRICT AND UNITARY
COUNTY COUNCILS**

- (i) 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.

9.05 Hearings

Hearings of the Standards Committee will be conducted in accordance with the Procedure for Local Determinations set out in Part 4 of this Constitution.

Article 10 – Joint Arrangements

10.01 Arrangements to Promote Well-Being

The Council or 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.

10.02 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more Local Authorities and/or their Executives to 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 with these other Local Authorities.
- (b) 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.
- (c) Except as set out below, the Executive may only appoint Executive Members to a Joint Committee and these Members need not reflect the political composition of the Local Authority as a whole.
- (d) The Executive may appoint Members to a Joint Committee from outside the Executive in the following circumstances:-
- (e) 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.
- (f) The political balance requirements do not apply to such appointments.
- (g) 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.

10.03 Access to information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the Members of a Joint Committee are Members of the Executive in each of their participating authorities then its access to information regime is the same as that applied to the Executive.
- (c) 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.

10.04 Delegation to and from Other Local Authorities

- (a) The Council may delegate non-executive functions to another Local Authority or, in certain circumstances, the Executive of another Local Authority.
- (b) The Executive may delegate executive functions to another Local Authority or the Executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another Local Authority shall be reserved to the Council meeting.

10.05 Contracting Out

The Council may, for non executive functions and the Executive for executive functions, 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 11 – Officers

TERMINOLOGY

11.01 Management Structure

- (a) **General.** The Full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Full Council will engage persons for the following posts, who will be designated Chief Officers:-

Post	Functions and Areas of Responsibility
Joint Chief Executive for Rochford District Council and Brentwood Borough Council (and Joint Head of Paid Service)	<p>Overall corporate management and operational responsibility (including overall management responsibility for all officers) as set out in the management structure contained in Part 7 of the Constitution.</p> <p>Ensuring appropriate professional advice to all parties in the decision-making process.</p> <p>Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p>

- (c) **Joint Head of Paid Service, Monitoring Officer and Chief Finance Officer.**

The Council will designate the following posts as shown:-

Post	Designation
Joint Chief Executive for Rochford District Council and Brentwood Borough Council	Joint Head of Paid Service
Assistant Director, Legal & Democratic	Monitoring Officer
Assistant Director, Resources	Chief Finance Officer

Such posts will have the functions described in Article 11.02 – 11.04 below.

- (d) **Structure.** The Joint Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

11.02 Functions of the Joint Head of Paid Service

- (a) **Discharge of functions by the Council.** The Joint Head of Paid Service will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on Functions.** The Joint Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if he/she is a qualified accountant.

11.03 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision-making.** After consulting with the Joint Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council or the Executive in relation to executive functions if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters of conduct and make reports and recommendations the Standards Committee.
- (e) **Proper Officer for access to information.** The Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available as soon as possible.
- (f) **Advising whether Executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (g) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.

- (h) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Joint Head of Paid Service.
- (i) **Designation of Deputy.** An officer will be designated by the Monitoring Officer to deputise for her during any absence.

11.04 **Functions of the Chief Finance Officer**

- (a) **Ensuring lawfulness and financial prudence of decision-making.** After consulting with the Joint 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 executive functions 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.
- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** 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.
- (e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

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

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

11.06 **Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

11.07 **Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

Article 12 – Decision Making

12.01 Responsibility for Decision-Making

The Council will issue and keep up to date a record of what part of the Council or which 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.

12.02 Principles of Decision-Making

All decisions of the Council 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) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes;
- (f) consideration of all options available;
- (g) only relevant matters to be taken into account;
- (h) due weight to be given to all material considerations and
- (i) proper procedures shall be followed.

12.03 Types of Decision

- (a) Decisions Reserved to Full Council

Decisions relating to the functions listed in Article 4.02 will be made by the Full Council and not delegated.

- (b) Key Decisions

A key decision means an Executive decision that is likely:-

- (i) to result in the local authority incurring expenditure which is, or the making of savings which are significant, having regard to the local authority's budget for the service or function to which the decision related.
- (ii) To be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the area of the District of Rochford.

In accordance with section 38 of the 2000 Act, in determining the meaning of “significant” for the purposes of this paragraph regard shall be had to any guidance for the time being issued by the Secretary of State.

For the time being a key decision in terms of expenditure or savings will be an executive decision which exceeds £50,000, excluding the following:-

- decisions relating to borrowing and investment within the Council's treasury management strategy;
 - decisions relating to the engagement and payment of staff;
 - decision relating to the sale and purchase of land or property below £250,000;
 - decisions about the acquisition of and payment for vehicles, plant, machinery, goods, supplies and services where these can be dealt with within budget and in accordance with existing Council policy, Contract Procedure Rules and Financial Regulations, and where the cost does not exceed £250,000;
 - decisions about capital schemes where these are already contained within the approved capital programme, and can be dealt with in accordance with existing Council policy, contract standing orders and financial regulations, and where the contract does not exceed £250,000 and
- (iii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

12.04 Decision-Making by the Full Council

The Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

12.05 Decision-Making by the Executive

Subject to Article 12.07, the Executive will follow the Executive Procedure Rules set out in part 4 of the Constitution when considering any matter.

12.06 Decision-Making by the Overview & Scrutiny Committee

The Overview & Scrutiny Committee will follow the Overview & Scrutiny Committee Procedure Rules set out in Part 4 of this Constitution when considering any matter.

12.07 Decision Making by Other Committees and Sub-Committees Established by this Council

Other Council Committees and Sub-Committees will follow those parts of the Committee and Sub-Committee Procedure Rules set out in Part 4 of this Constitution as apply to them.

12.08 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.

Article 13 – Finance, Contracts and Legal Matters

13.01 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 4 of this Constitution.

13.02 Contracts

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this Constitution.

13.03 Legal Proceedings

The Assistant Director, Legal & Democratic 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 Assistant Director, Legal & Democratic considers such action is necessary to protect the Council's interests.

13.04 Authentication of Documents

Where any document is necessary for any legal procedure or proceedings on behalf of the Council, it will be signed by the Assistant Director, Legal & Democratic 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.

Any contract with a value exceeding £30,000 entered into on behalf of the Local Authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the Common Seal of the Council attested by at least one officer.

13.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Assistant Director, Legal & Democratic. 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. The Common Seal will be affixed to those documents which in the opinion of the Assistant Director, Legal & Democratic should be sealed. The affixing of the Common Seal will be attested by the Assistant Director, Legal & Democratic or some other person authorised by him/her.

Article 14 – Review and Revision of the Constitution

14.01 Duty to Monitor and Review the Constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

14.02 Protocol for Monitoring and Review of Constitution by Monitoring Officer

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 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:-

1. observe meetings of different parts of the Member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

14.03 Changes to the Constitution

- (a) **Approval.** Subject to hereinafter mentioned, changes to the Constitution will only be approved by the Full Council after consideration of the proposal by the Monitoring Officer. Such other changes of a factual nature as may seem appropriate to make the Constitution internally consistent and up to date may be made by the Monitoring Officer in consultation with the Standards Committee.
- (b) **Change within a mayoral form of Executive.** Unless the change relates only to the operation of Overview and Scrutiny Committees, any resolution of the Full Council to approve a change will have no effect without the written consent of the Mayor.
- (c) **Change from a mayoral form of Executive to another form of Executive.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum. The change will not take effect until the end of the Mayor's term of office.

Article 15 – Interpretation and Publication of the Constitution

15.01 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles in Part 2 of this Constitution may not be suspended. The Rules in Part 4, except for 23.1, 17.5 and 18.2 of the Council Procedure Rules and 18.1, 12.5 and 13.2 of the Committee and Sub-Committee Procedure Rules may be suspended to the extent permitted within those Rules and the law. Other parts of the Constitution may be suspended in any lawful manner from time to time.
- (b) **Procedure to suspend.** 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. 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.

15.02 Interpretation

The ruling of the Chairman of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

15.03 Publication

- (a) The Assistant Director, Legal & Democratic will give a printed copy of this Constitution to each Member of the Authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- (b) The Assistant Director Legal & Democratic will ensure that copies are available for inspection at Council offices, libraries, online and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Assistant Director, Legal & Democratic will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the Executive arrangements:-

- (1) Article 6 (Overview & Scrutiny Committee) and Part 4 (Overview & Scrutiny Committee Procedure Rules)
- (2) Article 7 (The Executive) and Part 4 (Council Procedure Rules and Committee and Sub-Committee Procedure Rules)
- (3) Article 10 (Joint Arrangements)
- (4) Article 12 (Decision Making) and Part 4 (Access to Information Procedure Rules)
- (5) Part 3 (Responsibility for Functions)

PART 3

RESPONSIBILITY FOR FUNCTIONS

RESPONSIBILITY FOR FUNCTIONS

PART A

ALLOCATION OF RESPONSIBILITY FOR FUNCTIONS

1. INTRODUCTION

- 1.1 Part 3 of this Constitution deals with the allocation of responsibility for undertaking the functions of the Council as a whole. The Council consists of a number of distinct parts the key ones being the Executive, (Leader and Executive) and the Full Council who bear primary responsibility for the functions and powers of the Authority. However, in order to operate effectively powers are delegated to individual Members, Committees and Officers.
- 1.2 This Part sets out the way these functions and powers have been distributed in order that there is clarity as to who may exercise powers or make decisions in the name of the Council.
- 1.3 Part 3 is divided into three sections dealing with the distribution of functions and exercise of powers by the Full Council, the Executive and Officers.
- 1.4 This Part of this Constitution should be read in conjunction with Articles 4 (The Full Council), 7 (The Executive), 6 (Overview & Scrutiny Committee), 8 (Regulatory and other Committees), 9 (Standards Committee), 11 (Officers) and 12 (Decision Making).
- 1.5 Part 3 of this Constitution shall be interpreted in accordance with the relevant provisions of the Local Government Act 2000, in particular Section 13 (Functions which are to be the responsibility of an executive), and The Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended). In the event of any conflict between this Part and a provision in any piece of legislation, the latter shall prevail.

2. FUNCTIONS

2.1 The Authority's functions may lawfully be exercised by:-

- (a) Full Council;
- (b) The Executive;
- (c) The Leader;
- (d) Executive Members;
- (e) Committees and Sub-Committees of the Council or of the Executive;
- (f) Joint Committees;
- (g) Officers of the Council;
- (h) Other persons so authorised where the law permits.

2.2 The Authority's functions fall into four categories:-

- (1) those functions that are by law the responsibility of the Full Council unless delegated (sole Council responsibility);
- (2) those functions that are by law partly the responsibility of the Full Council and partly the responsibility of the Authority's Executive (shared responsibility);
- (3) those functions where there is a local choice whether they are the responsibility of the Full Council or the Authority's Executive (local choice responsibility);
- (4) all other functions are by law the responsibility of the Authority's Executive (default Executive responsibility).

Reference to the "Executive" means the Leader and Executive Members.

3. SOLE RESPONSIBILITY OF FULL COUNCIL

- 3.1 Decisions about the Council's policy framework and budget, and other constitutional matters may only be taken by Full Council. A full list of these matters is contained in Article 4 to this Constitution ('The Full Council'). The exercise of these functions may not be delegated to a committee or officer.
- 3.2 Full Council is also responsible for most regulatory functions and has established regulatory committees (such as the Development Committee and the Licensing & Appeals Committee) to discharge these functions.
- 3.3 The Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) gives effect to Section 13 of the Local Government Act 2000 by specifying which functions are not to be the responsibility of the Executive. These are set out in Table 1 which details the functions of Full Council which may be delegated to a committee or officer but cannot be undertaken by the Executive.

4. SHARED RESPONSIBILITY

- 4.1 Some functions are partly the responsibility of the Full Council and partly the responsibility of the Executive. These are:-
 - (a) the budget and any plan or strategy for the control of the Council's borrowing or capital expenditure (capital plan);
 - (b) the policy framework, that is the plans and strategies which the Council approves or adopts.
- 4.2 The Executive will be responsible for preparing the draft budget, draft plans and strategies and proposing them to the Full Council.

- 4.3 The Full Council will be responsible for:-
- (a) adopting or approving the draft budget, plan or strategy;
 - (b) asking the Executive to reconsider it; or
 - (c) amending the budget, plan or strategy.
- 4.4 The Executive will be responsible for implementing the Council's policies and spending the budget in accordance with the Council's financial rules and regulations. It will also be responsible for implementing and regularly monitoring treasury management policies and practices.
- 4.5 Some plans and strategies require ministerial approval after the Council has approved them. If the minister requires any amendments to those plans and/or strategies, the Executive will be responsible for making those amendments.
- 4.6 Table 2 sets out the shared responsibility functions.

5. LOCAL CHOICE FUNCTIONS

- 5.1 In some cases there is a local choice as to whether the function is to be the responsibility of the Full Council or the Executive and Table 3 sets out whether the function is to be the responsibility of the Full Council or the Executive.

6. DEFAULT EXECUTIVE FUNCTIONS

- 6.1 All other functions not so specified are to be responsibility of the Executive.
- 6.2 If a decision is the responsibility of the Executive, Full Council cannot overrule the Executive or give it instructions on how the decision should be made. However, in certain circumstances, Full Council can ask the Executive to reconsider decisions.

TABLE 1

FUNCTIONS WHICH CANNOT BE EXERCISED BY THE EXECUTIVE

This Table sets out the functions, listed in Schedule 1 to The Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended), which cannot be the responsibility of the Executive and specifies which part of the Authority will be responsible for them. (Subject to the Scheme of Delegation to Officers set out in Part C of this Part)

Function	Provision of Act or Statutory Instrument
A. Functions relating to town and country planning and development control	
1.Power to determine application for planning permission.	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990
2.Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.
3.Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990.
4.Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990
5.Duties relating to the making of determinations of planning applications.	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made there under
6.Power to determine application for planning permission made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492)
7.Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418).
8.Power to enter into agreement regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.

Function	Provision of Act or Statutory Instrument
9.Power to issue a certificate of existing or proposed lawful use or development.	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990
10.Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990.
11.Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992
12.Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990
13.Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.
14.Power to serve a planning contravention notice, breach of condition notice or stop notice.	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990
15.Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990
16.Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990
17.Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990
18.Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c. 25) and paragraph 6(5) of Schedule 14 to that Act.

Function	Provision of Act or Statutory Instrument
19. Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.
20. Power to determine application for listed building consent, and related powers.	Sections 16(1) and (2), 17, 27(2) and 33(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990
21. Power to determine applications for conservation area consent.	Section 16(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990, as applied by section 74(3) of that Act
22. Duties relating to applications for listed building consent and conservation area consent.	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1990 and paragraphs 8, 15 and 22 of Department of the Environment Circular 14/97.
23. Power to serve a building preservation notice, and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
24. Power to issue enforcement notice in relation to demolition of unlisted building in conservation area.	Section 38 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
25. Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
26. Power to apply for an injunction in relation to a listed building.	Section 44A of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990
27. Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.

Function	Provision of Act or Statutory Instrument
B. Licensing and registration functions (in so far as not covered by any other section of this Table)	
1.Power to issue licences authorising the use of land as a caravan site ("site licences").	Section 3(3) of the Caravan Sites and Control of Development Act 1960
2.Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936
3.Power to license hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847 as extended by section 171 of the Public Health Act 1875 and section 15 of the Transport Act 1985 and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
4.Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
5.Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
6.Power to register pool promoters.	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(c) of the Gambling Act Order
7.Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(d) and 4 of the Gambling Act Order

Function	Provision of Act or Statutory Instrument
8.Power to license inter-track betting schemes.	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(e) of the Gambling Act Order
9.Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968 as saved for certain purposes by article 4(2)(1) and (m) of the Gambling Act Order
10.Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 as saved for certain purposes by article 5(2)(a) and (3) of the Gambling Act Order
11.Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976 as saved for certain purposes by article 5(2)(d) and (5) of the Gambling Act Order
12.Power to issue cinema and cinema club licences.	Section 1 of the Cinema Act 1985
13.Power to issue theatre licences.	Sections 12 to 14 of the Theatres Act 1968
14.Power to issue entertainments licences.	Section 12 of the Children and Young Persons Act 1933, section 52 of, and Schedule 12 to, the London Government Act 1963, section 79 of the Licensing Act 1964, sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982
15.Power to license sex shops and sex cinemas.	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.
16.Power to license performances of hypnotism.	The Hypnotism Act 1952

Function	Provision of Act or Statutory Instrument
17.Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.
18.Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907 (c. 53)
19.Power to register door staff.	Paragraphs 1(2) and 9 of Schedule 12 to the London Government Act 1963 (c. 33) and Part V of the London Local Authorities Act 1995
20.Power to license market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982, Part III of the London Local Authorities Act 1990 (c. vii) and section 6 of the London Local Authorities Act 1994
21.Power to license night cafes and take-away food shops.	Section 2 of the Late Night Refreshment Houses Act 1969 (c. 53) , Part II of the London Local Authorities Act 1990 and section 5 of the London Local Authorities Act 1994.
22.Duty to keep list of persons entitled to sell non-medicinal poisons.	Sections 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972
23.Power to license dealers in game and the killing and selling of game.	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831 sections 2 to 16 of the Game Licensing Act 1860 section 4 of the Customs and Inland Revenue Act 1883 sections 12(3) and 27 of the Local Government Act 1874 and section 213 of the Local Government Act 1972
24.Power of register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990
25.Power to license scrap yards.	Section 1 of the Scrap Metal Dealers Act 1964

Function	Provision of Act or Statutory Instrument
26. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975 (c. 52)
27. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987
28. Power to issue fire certificates.	Section 5 of the Fire Precautions Act 1971
29. Power to license premises for the breeding of dogs.	Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999
30. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	Section 1 of the Pet Animals Act 1951; section 1 of the Animal Boarding Establishments Act 1963 the Riding Establishments Acts 1964 and 1970 (1964 and 1970 section 1 of the Breeding of Dogs Act 1973 and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.
31. Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925
32. Power to license zoos.	Section 1 of the Zoo Licensing Act 1981
33. Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976
34. Power to license knackers' yards.	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (S.I. 1999/646).
35. Power to license the employment of children.	Part II of the Children and Young Persons Act 1933 byelaws made under that Part, and Part II of the Children and Young Persons Act 1963

Function	Provision of Act or Statutory Instrument
36. Power to approve premises for the solemnisation of marriages.	Section 46A of the Marriage Act 1949 and the Marriages (Approved Premises) Regulations 1995 (S. I. 1995/510)
<p>37. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to—</p> <p>(a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c. 67) or</p> <p>(b) an order under section 147 of the Inclosure Act 1845.</p>	Regulation 6 of the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843).
38. Power to register variation of rights of common.	Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471)
39. Power to license persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 (c. 31) and section 2 of the House to House Collections Act 1939 (c. 44).
40. Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c. 40).
41. Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991
42. Power to license agencies for the supply of nurses.	Section 2 of the Nurses Agencies Act 1957 (c. 16).
43. Power to issue licences for the movement of pigs.	Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (S.I. 1995/11).
44. Power to license the sale of pigs.	Article 13 of the Pigs (Records, Identification and Movement) Order 1995.

Function	Provision of Act or Statutory Instrument
45.Power to license collecting centres for the movement of pigs.	Article 14 of the Pigs (Records, Identification and Movement) Order 1995.
46.Power to issue a licence to move cattle from a market.	Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871).
47.Power to permit deposit of builder's skip on highway.	Section 139 of the Highways Act 1980 (c. 66).
48.Power to license planting, retention and maintenance of trees etc. in part of highway.	Section 142 of the Highways Act 1980.
49.Power to authorise erection of stiles etc. on footpaths or bridleways.	Section 147 of the Highways Act 1980.
50.Power to license works in relation to buildings etc. which obstruct the highway.	Section 169 of the Highways Act 1980.
51.Power to consent to temporary deposits or excavations in streets.	Section 171 of the Highways Act 1980.
52.Power to dispense with obligation to erect hoarding or fence.	Section 172 of the Highways Act 1980.
53.Power to restrict the placing of rails, beams etc. over highways.	Section 178 of the Highways Act 1980.
54.Power to consent to construction of cellars etc. under street.	Section 179 of the Highways Act 1980
55.Power to consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators.	Section 180 of the Highways Act 1980.
56.Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematograph Film Act 1922

Function	Provision of Act or Statutory Instrument
57.Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082)
58.Power to approve premises for the production of minced meat or meat preparations.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205)
59.Power to approve dairy establishments.	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (S.I. 1995/1086)
60.Power to approve egg product establishments.	Regulation 5 of the Egg Products Regulations 1993 (S.I. 1993/1520).
61.Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763)
62.Power to approve fish products premises.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994).
63.Power to approve dispatch or purification centres.	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
64.Power to register fishing vessels on which shrimps or molluscs are cooked.	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
65.Power to approve factory vessels and fishery product establishments.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
66.Power to register auction and wholesale markets.	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.

Function	Provision of Act or Statutory Instrument
67.Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828).
68.Power to register food business premises.	Regulation 9 of the Food Premises (Registration) Regulations 1991.
C. Functions relating to health and safety at work	
Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.	Part I of the Health and Safety at Work etc. Act 1974 (c. 37).
D. Functions relating to elections	
1.Duty to appoint an electoral registration officer.	Section 8(2) of the Representation of the People Act 1983 (c. 2).
2.Power to assign officers in relation to requisitions of the registration officer.	Section 52(4) of the Representation of the People Act 1983.
3.Functions in relation to parishes and parish councils.	Part II of the Local Government and Rating Act 1997 and subordinate legislation under that Part.
4.Power to dissolve small parish councils.	Section 10 of the Local Government Act 1972.
5.Power to make orders for grouping parishes, dissolving groups and separating parishes from groups.	Section 11 of the Local Government Act 1972.

Function	Provision of Act or Statutory Instrument
6.Duty to appoint returning officer for local government elections.	Section 35 of the Representation of the People Act 1983.
7.Duty to provide assistance at European Parliamentary elections.	Paragraph 4(3) and (4) of Schedule 1 to the European Parliamentary Elections Act 1978
8.Duty to divide constituency into polling districts.	Section 18 of the Representation of the People Act 1983
9.Power to divide electoral divisions into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983.
10.Powers in respect of holding of elections.	Section 39(4) of the Representation of the People Act 1983.
11.Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983.
12.Power to fill vacancies in the event of insufficient nominations.	Section 21 of the Representation of the People Act 1985.
13.Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972.
14.Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972.
15.Power to make temporary appointments to parish councils.	Section 91 of the Local Government Act 1972.
16.Power to determine fees and conditions for supply of copies of, or extracts from elections documents.	Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 (S.I. 1986/2214) and rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986 (S.I. 1986/2215).
17.Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.	Section 10 of the Representation of the People Act 2000

Function	Provision of Act or Statutory Instrument
E. Functions relating to name and status of areas and individuals	
1.Power to change the name of a county, district or London borough.	Section 74 of the Local Government Act 1972.
2.Power to change the name of a parish.	Section 75 of the Local Government Act 1972.
3.Power to confer title of honorary alderman or to admit to be an honorary freeman.	Section 249 of the Local Government Act 1972.
4.Power to petition for a charter to confer borough status.	Section 245b of the Local Government Act 1972.
F. Power to make, amend, revoke or re-enact byelaws	Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978
G. Power to promote or oppose local or personal Bills.	Section 239 of the Local Government Act 1972.
H. Functions relating to pensions etc.	
1.Functions relating to local government pensions, etc.	Regulations under section 7, 12 or 24 of the Superannuation Act 1972
2.Functions under the Fireman's Pension Scheme relating to pensions, etc. as respects persons employed as members of fire brigades maintained pursuant to section 4 of the Fire Services Act 1947.	Section 26 of the Fire Services Act 1947
I. Miscellaneous functions	
1.Power to create footpaths and bridleways.	Section 26 of the Highways Act 1980
2.Power to stop up footpaths and bridleways.	Section 118 of the Highways Act 1980.
3.Power to divert footpaths and bridleways.	Section 119 of the Highways Act 1980.

Function	Provision of Act or Statutory Instrument
4.Duty to assert and protect the rights of the public to use and enjoyment of highways.	Section 130 of the Highways Act 1980.
5.Powers relating to the removal of things so deposited on highways as to be a nuisance.	Section 149 of the Highways Act 1980.
6.Duty to keep a definitive map and statement under review.	Section 53 of the Wildlife and Countryside Act 1981
7.Duty to reclassify roads used as public paths.	Section 54 of the Wildlife and Countryside Act 1981.
8.Duty to approve authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be).	The Accounts and Audit Regulations 1996 (S.I. 1996/590).
9.Functions relating to sea fisheries.	Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966 (c. 38).
10.Powers relating to the preservation of trees.	Sections 197 to 214D of the Town and Country Planning Act 1990 and the Trees Regulations 1999 (S.I. 1999/1892).
11.Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.I. 1997/1160).
12.Power to make limestone pavement order.	Section 34(2) of the Wildlife and Countryside Act 1981 (c. 69).
13.Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972
14.Power to appoint staff.	Section 112 of the Local Government Act 1972.
15.Power to make standing orders as to contracts.	Section 135 of the Local Government Act 1972.
16.Power to make payments or provide other benefits in cases of maladministration etc.	Section 92 of the Local Government Act 2000.

TABLE 2**FUNCTIONS NOT TO BE THE SOLE RESPONSIBILITY OF THE EXECUTIVE**

The Executive is responsible for formulating or preparing the plans listed below and then submitting them to Full Council for consideration and adoption or approval.

Plans and strategies	Reference
Annual Library Plan ¹	Section 1(2) of the Public Libraries and Museums Act 1964
Best Value Performance Plan	Section 6(1) of the Local Government Act 1999
Children and Young People's Plan ¹	Paragraph 1A of Schedule 2 to the Children Act 1989
Crime and Disorder Reduction Strategy	Sections 5 and 6 of the Crime and Disorder Act 1998
Development Plan Documents ²	Section 15 of the Planning and Compulsory Purchase Act 2004.
Licensing Authority Policy Statement	Section 349 of the Gambling Act 2005
Local Transport Plan	Section 108(3) of the Transport Act 2000
Plans and alterations which together comprise the Development Plan	Section 54 of the Town & Country Planning Act 1990
Sustainable Community Strategy ³	Section 4 of the Local Government Act 2000
Youth Justice Plan ¹	Section 40 of the Crime and Disorder Act 1998

¹ Not the responsibility of the District Council

² Functions relating to local development documents which are not development plan documents are the responsibility of the Executive

³ Local Strategic Partnership

TABLE 3**LOCAL CHOICE FUNCTIONS**

Functions that may be exercised by either the Council or the Executive

Function	Decision Making Body	Delegation of Functions
The determination of an appeal against any decision made by or on behalf of the Council	Council	Licensing & Appeals Committee
Any function relating to contaminated land	Council	Executive
The discharge of any function relating to the control of pollution or the management of air quality	Council	Executive
The service of an abatement notice in respect of a statutory nuisance	Council	Executive
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	Executive	
The inspection of the authority's area to detect any statutory nuisance	Council	Executive
The investigation of any complaint as to the existence of a statutory nuisance	Council	Executive

Function	Decision Making Body	Delegation of Functions
The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land	Executive	Assistant Director, Place and Environment and/or Assistant Director, Legal & Democratic
The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Executive	Assistant Director, Legal & Democratic
<p>The appointment of any individual:-</p> <ul style="list-style-type: none"> - To any office other than an office in which he is employed by the Authority. - To anybody other than:- <ul style="list-style-type: none"> (i) A joint Committee of two or more authorities; or (ii) To any Committee or Sub-Committee of such a body and the revocation of any such appointment. 	Executive	Joint Chief Executive for Rochford District Council and Brentwood Borough Council
Making agreements with other local authorities for the placing of staff at the disposal of those other authorities.	Executive	Joint Chief Executive for Rochford District Council and Brentwood Borough Council

3. Functions (Council) delegated to Committees

COMMITTEE	MEMBERS HIP	FUNCTION
Regulatory, Probity and Other Committees		
Development Committee	13 Members of the Authority	Those functions in relation to town and country planning and development control as specified in this Part and Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended)
Licensing & Appeals Committee	15 Members of the Authority	Those functions in relation to appeals, licensing and registration and those functions under the Licensing Act 2003, the Gambling Act 2005, Animal Welfare Act 2018 and all associated or amending legislation as specified in this part and Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).
Audit Committee	11 Members of the Authority	Those functions in relation to: - <ul style="list-style-type: none"> • matters arising out of internal audit and control reports, • the scope of internal audit activity, • review of the adequacy of governance and risk management arrangements and internal control, and • consideration of matters arising from external audit as are referred to it by the External Auditor. • scrutiny of the treasury management strategy and policies.
Standards Committee	8 Members of the Authority 3 Parish Council co-opted, non-voting Members	All matters set out in paragraph 9.04 of Article 9 of this Constitution
Chief Officer Appointments Committee	9 Members of the Authority	To make recommendations in respect of the Head of Paid Service role, to appoint to any Chief Officer vacancies and determine any Chief Officer appointment matters that may arise during the Municipal Year.
Statutory Officer Personnel Committee	9 Members of the Authority	To be the Committee responsible for Statutory Officer discipline (relating to the Head of Paid Service; the Monitoring Officer; and the Chief Finance Officer), to have the powers of the Investigation and Disciplinary Committee in the JNC Chief Executive's Terms and Conditions of Service Handbook and the Local Authorities (Standing Orders)(England) Regulations 2001, including for capability and grievances; To appoint independent investigators and independent advisers, as required; To suspend a Statutory Officer, if considered appropriate; To determine disciplinary and other action as considered appropriate; To agree severance terms for Statutory Officers, including where any severance package exceeds £100,000 and Members consider that it would be appropriate for the Committee to decide rather than report to Full Council.

Onward Delegations	Responsible Officers	Functions
<p>Any decision which an officer takes under delegated powers must:-</p> <p>a) Implement a policy or decision previously approved or taken by the Executive or a Committee;</p> <p>b) Facilitate or be conducive or incidental to the implementation of a policy or decision previously taken by the Executive or a Committee;</p> <p>This delegation does not include the authority to confirm any order or issue any permission, consent, licence or similar determination that is the subject of a statutory right of appeal that has been duly exercised or a substantive objection that has been raised.</p>	<p>Joint Chief Executive for Rochford District Council and Brentwood Borough Council</p> <p>Strategic Director</p> <p>Assistant Director, Legal & Democratic</p> <p>Assistant Director, Resources</p> <p>Assistant Director, Assets & Commercial</p> <p>Assistant Director, People & Communities</p> <p>Assistant Director, Place & Environment</p> <p>Assistant Director, Transformation & Customer</p>	<p>To do all things necessary for the proper management and administration of the Council's services and functions as set out in and subject to the Scheme of Delegation to Officers contained within Part C of this Part of the Constitution and approved annually by Full Council</p>

PART B

EXECUTIVE FUNCTIONS

The functions identified as being the responsibility of the Executive shall be carried out by the Executive in accordance with the Leader's scheme of delegation set out in this part.

1. Executive Functions

- 1.1 To make recommendations to the Council in relation to the functions contained in Part A of this document.
- 1.2 Subject to those matters reserved to the Council in Part A of this document, the Overview & Scrutiny Committee functions and with the exception of those Council (non-Executive) powers specifically delegated to other forums set out in Parts A and C of this document, the Executive has full power to act in respect of every other function.
- 1.3 To refer at its discretion, any issue to the Overview & Scrutiny Committee for detailed consideration and report.
- 1.4 To consider the recommendations of the Overview & Scrutiny Committee either arising from an issue referred to it under 3 above, or where the latter Committee has "called-in" a decision of the Executive for review

2. Executive Functions Delegated to an Individual Member

- 2.1 This Scheme of Delegation is made pursuant to the Local Government Act 2000 Section 15(4) and takes effect on and from 14 May 2008
- 2.2 Pursuant to S.15(4) Local Government Act 2000 The Leader of the Council may discharge any functions and exercise any powers which are the responsibility of the Executive, (and which have not previously been allocated pursuant S.15 (2) Local Government Act 2000); alternatively the Leader may arrange for the discharge of any of those functions by any of the following:-
 - (a) the Executive
 - (b) a Committee of the Executive
 - (c) an individual Member of the Executive
 - (d) an Officer of the Council
- 2.3 The Leader has exercised his/her power of delegation in the manner set out in Schedules 1 and 2 below.
- 2.4 The Leader may amend the scheme of delegations at any time by giving notice in writing to any person to whom the power is now to be delegated and to the Monitoring Officer setting out the change to be made; such amendment to take effect immediately on confirmation of

receipt by the Monitoring Officer or in their absence the Deputy Monitoring Officer

- 2.5 The Leader may exercise the functions allocated to any Executive Member under this Scheme in the absence of that Member.
- 2.6 Where the Council, the Leader, the Executive or a Committee of the Executive or a member of the Executive gives authority for the doing of any thing the person or persons designated shall be entitled to take all necessary steps for the doing of such thing including the appointment of an Advisory Group of persons (including officers and persons who are not Members of the Council) to assist him or her or them in his or her or their work.
- 2.7 In the absence of the Leader the person or persons designated by the Leader and notified by the Leader to the Joint Chief Executive for Rochford District Council and Brentwood Borough Council as having responsibility for the Leader's areas of responsibility is or are authorised to exercise the functions of the Leader pursuant to the Constitution, Council Procedure Rules, Financial Procedure Rules and this Scheme of Delegation.

3. General Principles

- 3.1 Where decisions are taken under delegated powers the following principles and conditions shall apply:-
 - (a) Powers shall be exercised in accordance with the Council Procedure Rules, Financial Procedure Rules and Contract Procedure Rules of the Council
 - (b) The person or persons exercising such power shall give effect to any resolution of the Council upon any matter of principle or policy in relation to the functions concerned
 - (c) The person or persons dealing with a matter shall arrange any appropriate consultation including that with the Leader, other Members of the Executive, Officers and others that shall be required.
 - (d) In any case where the person or persons exercising the power considers that a new departure in policy is likely to be involved, or if the implications are such that the person considers, after consulting the Joint Chief Executive for Rochford District Council and Brentwood Borough Council, that such course is necessary, the matter shall be referred to the Executive for consideration before reference to the Council.
 - (e) Key decisions taken shall be in accordance with the rules on access to information in Part 4 ('The Access to Information Procedure Rules') as they apply to the Executive.

- (f) Any person or persons to whom a matter has been allocated or delegated may decide to seek the authority of the Leader or Executive rather than to exercise delegated authority in any matter.
- (g) The exercise of delegated authority shall be subject to there being appropriate and adequate budgetary provision. Where a Member of the Executive requests another person to exercise powers delegated to him or her, the person instructing shall ensure that appropriate and adequate budgetary provision has been made.
- (h) The exercise of delegated authority relating to a key decision shall be documented in the prescribed form.
- (i) Any decision which could attract to the Council legal liability shall be taken in consultation with the Monitoring Officer.
- (j) Any decision that has significant financial implications shall be taken in consultation with the S.151 Officer.
- (k) Any decision that could involve the exercise by the Council's Monitoring Officer of any of his or her powers shall be taken in consultation with him or her or in his or her absence the nominated Deputy Monitoring Officer.
- (m) The Leader and each Executive Member shall in exercising his or her functions have regard to the Council's duty to secure continuous improvement in the delivery of its services and in particular to improve performance as measured by nationally and locally set performance indicators which affect the functions delegated to him or her.
- (n) The Leader and each Executive Member shall in exercising functions delegated under the Scheme of Delegation have regard to all relevant considerations and shall not take into account irrelevant matters.

4. PORTFOLIOS AND POWERS DELEGATED TO INDIVIDUAL MEMBERS OF THE EXECUTIVE

- 4.1 The following table sets out the portfolios of and powers delegated by the Leader to individual Executive Members and to the Executive itself pursuant to S15(4) Local Govt. Act 2000.
- 4.2 An Executive Member may exercise Executive functions in respect of all matters within his/her portfolio except:-
 - Key Decisions where the matter has been specifically referred to or reserved to the Executive

- land transactions having a value or an aggregate value in excess of £250,000
- contracts or other non-land related matters having a value or an aggregate value in excess of £250,000
- matters in which he/she has a declarable interest
- matters where his/her involvement would be contrary to any decision making protocol or other guidance approved by the Executive

4.3 Functions involving decisions falling within any of the above criteria are hereby delegated to the Executive acting collectively.

4.4 For the avoidance of doubt where responsibility for a function is delegated under this scheme the individual(s) to whom it is delegated is/are empowered to:-

- take any step in the course of or otherwise for the purposes of or in connection with, the discharge of the function,
- do anything incidental or conducive to the discharge of that function, or
- do anything expedient in connection with the discharge of the function or any action falling within paragraph a) or b).

Individual Member of Executive	Function	Limits and Qualification
Leader of Council (or Deputy in his/her absence)	Taking a special urgency decision in accordance with the Access to Information Procedure Rules	Agreement of Chairman of Overview & Scrutiny Committee required (or, in his/her absence, the Chairman of Council or in his/her absence, the Vice-Chairman of the Council).
	Taking an urgent decision contrary to the Policy Framework in accordance with the Budget and Policy Framework Procedure Rules	Only if not practicable to convene a quorate meeting of Full Council and written consent is received from the Chairman of the Overview & Scrutiny Committee that the decision may be regarded as urgent (in the absence of the Overview & Scrutiny Committee Chairman, the Chairman of the Council (or in his/her absence, the Vice-Chairman of the Council) should be consulted).

	Strategy, Vision, Policy, Priorities and Performance; National/Regional Issues; Strategic Engagement with other Authorities; Lead Member on Association of Essex Local Authorities (ASELA); Outside Bodies, eg, LGA, OSE; Customer Experience; Asset Programme (Voyage) and all residual functions of the Executive.	To take all steps necessary to procure the effective and efficient provision of services within the ambit of the portfolio.
Deputy Leader	Communications & Social Media; Licensing; Human Resources; Reform; Transformation & Connect Programme; Standards; Legal & Democratic Services; Elections.	To take all steps necessary to procure the effective and efficient provision of services within the ambit of the portfolio
Executive Member for Financial Services	Financial Resources; Audit; Procurement; Risk Management; Payroll; Creditors and Debtors; Budget; Revenues and Benefits; and Fraud.	To take all steps necessary to procure the effective and efficient provision of services within the ambit of the portfolio
Executive Member for Commercial, Business, Local Economy & Leisure	Leisure; Estate Management; Businesses; Economic Development; Land Charges; Health & Safety; Emergency Planning	To take all steps necessary to procure the effective and efficient provision of services within the ambit of the portfolio
Executive Member for Strategic Planning	Strategic Planning; Policy and Economic Regeneration; Development Management; Planning Enforcement; Building Control; Transport; Highways & Infrastructure	To take all steps necessary to procure the effective and efficient provision of services within the ambit of the portfolio

Executive Member for Environment & Place	Waste Management and Collection; Street Scene and Cleansing; Air Quality; Climate Change; Open Spaces; Flooding & Coastal Management (Crouch Harbour Authority); Tree Protection Orders; Hergerows; Cemetery Services	To take all steps necessary to procure the effective and efficient provision of services within the ambit of the portfolio
Executive Member for Community	Community Engagement; Younger People; Youth Council; Community Safety; Public & Environmental Health; Safeguarding; Grants and Voluntary Sector Support; Essex Countywide Traveller Unit	To take all steps necessary to procure the effective and efficient provision of services within the ambit of the portfolio
Executive Member for IT, Tourism, Housing & Parking	Information Technology; Regulation of Investigatory Powers Act 2000 (RIPA); Data Protection; Car Parking – District and South Essex Parking Partnership; Housing (HRA)/Housing Development; Homelessness; Tourism – Arts, Culture and Heritage	To take all steps necessary to procure the effective and efficient provision of services within the ambit of the portfolio

PART C

SCHEME OF DELEGATIONS TO OFFICERS OF COUNCIL AND EXECUTIVE FUNCTIONS

1 General Principles

- 1.1 This scheme delegates the powers and duties of the Council to officers within broad functional descriptions based on the management structure set out in Part 7 of the Constitution and includes powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation including authorising the affixing of the Common Seal.
- 1.2 This scheme operates under the provisions of the Local Government Act 1972 and all other powers enabling the Council.
- 1.3 In each case the delegated authority includes management of the human and material resources made available for the functions and services within the limitations of this scheme and subject to specific delegations in this scheme or elsewhere to another officer.
- 1.4 In this scheme "Officer" means the holder of any post named in this scheme as having delegated powers and duties.

2 Limitations on the Exercise of Delegated Powers

2.1 General Limitations

This scheme does not delegate to officers:-

- (a) any matter reserved to Full Council or;
- (b) any matter which by law may not be delegated to an officer;
- (c) any matter expressly reserved to the Executive or a Committee within this Constitution or withdrawn from delegation by this scheme or by the Executive, a Committee or the Council;
- (d) authority to determine policy and budgets.

2.2 Council Policy

Any exercise of delegated powers shall be subject to policies approved by the Council from time to time including Employment Policies and Disciplinary Policies, relevant Codes of Conduct and the Corporate Policy Framework.

2.3 Budget

In exercising delegated powers, Officers shall not go beyond the provision in the revenue or capital budgets except as permitted by Financial Regulation and Procurement Policy.

2.4 Scrutiny and Call-in

In exercising delegated powers, officers shall advise the Chairman of the Executive and the affected Ward Member/s of any decision to be taken that is:-

- (1) outside the ordinary duties of the service and
- (2) has a significant effect on one or more Wards in the District in terms of service or quality of life in the area.

Any proposal to take a decision in these circumstances may be called in, subject to the provisions for urgent action, by the Chairman of the Executive who will normally acquiesce to such a request from Ward Members. The matter will then be put to the Executive for decision at its next meeting.

3 Onward Delegation

- 3.1 This scheme includes the power for officers to delegate in writing all or any of their delegated functions to other officers (described by name of post) either fully or under the general supervision and control of the delegating Officer.

Sub-delegations will be publicly available documents and may be reviewed by the Executive or scrutinised by the Overview & Scrutiny Committee at any time.

Any officer exercising powers or duties in pursuance of full sub-delegation will be politically restricted under Section 2(1)(g) of the Local Government and Housing Act 1989.

3.2 **To the Joint Chief Executive for Rochford District Council and Brentwood Borough Council**

To be Head of Paid Service and determine and issue general guidelines to officers with regard to recruitment, training, conditions of service, national and local pay awards, rewards, health and safety, employment relations, discipline and dismissals.

To be the responsible officer for and take decisions and exercise discretion on the management of Human Resources and matters of Corporate Policy, Health and Safety, Emergency Planning and Staffing issues.

To be Emergency Controller for the District of Rochford and with the agreement of the Leader of the Council and appropriate Executive Members and Chief Officers (or in their absence deputy) to take any action that cannot reasonably be delayed until the next available Council, Executive, Committee or Sub-Committee meeting, subject to a

report on such action being made to the next practicable meeting of the appropriate body.

To be Returning Officer for District and Parish Council Elections in the District of Rochford, retaining the right to appoint others to discharge any or all of the functions of Returning Officer.

To be Electoral Registration Officer for the Council with authority to bring proceedings and to defend actions under the Representation of the People Act 1983 and any associated regulations.

3.3 To the Strategic Director

To deputise for the Joint Chief Executive for Rochford District Council and Brentwood Borough Council and be the Responsible Officer and take decisions and exercise discretion on all corporate management issues affecting the Council.

3.4 To the Assistant Director, Legal & Democratic

To be Monitoring Officer pursuant to Section 5 of the Local Government and Housing Act 1989, as amended by Schedule 5 paragraph 24 of the Local Government Act 2000 and to grant dispensations under Section 33 of the Localism Act 2011.

To be Proper Officer for all statutory purposes and Standing Orders except where a specific appointment has been delegated to another officer.

To be the Solicitor to the Council.

To deputise for the Joint Chief Executive for Rochford District Council and Brentwood Borough Council and/or the Strategic Director and be the Responsible Officer for and take decisions and exercise discretion on matters within Legal & Democratic Services.

To authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal, including the making of appeals.

To give necessary legal authorisation to officers of the Council, including authorisation to appear before the Magistrates' Courts, to serve notices to ascertain interests in land and to enter upon land in connection with the discharge of any of the functions of the Council.

To authenticate documents on behalf of the Council.

To be the data protection officer for the Council.

3.5 To the Assistant Director, Resources

To exercise the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972 and Section 114 of the Local Government and Finance Act 1988.

To be the Proper Officer under Section 115 of the Local Government Act 1972.

To have responsibility for accounting records and control systems, the form of the Statement of Accounts, its preparation, audit and inspection in accordance with the provisions of the Accounts and Audit Regulations 2003.

To update financial limits within the Financial Procedures Rules from time to time broadly in line with inflations.

To have responsibility for the execution and administration of treasury management decisions.

To deputise for the Joint Chief Executive for Rochford District Council and Brentwood Borough Council and/or the Strategic Director and be the Responsible Officer for and take decisions and exercise discretion on matters within Resource Services.

To determine the Council Tax base figure each year.

3.6 To the Assistant Director, Assets & Commercial

To deputise for the Joint Chief Executive for Rochford District Council and Brentwood Borough Council and/or the Strategic Director and be the Responsible Officer for and take decisions and exercise discretion on matters within Assets and Commercial Services.

To the Assistant Director, People & Communities

3.7

To deputise for the Joint Chief Executive for Rochford District Council and Brentwood Borough Council and/or the Strategic Director and be the Responsible Officer for and take decisions and exercise discretion on matters within People & Community Services.

To the Assistant Director, Place & Environment

3.8

To deputise for the Joint Chief Executive for Rochford District Council and Brentwood Borough Council and/or the Strategic Director and be the Responsible Officer for and take decisions and exercise discretion on matters within Place & Environmental Services except for the determination of planning applications when the following categories only will be determined under delegation:-

- i. Applications determined in accordance with the Weekly List procedure.
- ii. Private garages within the curtilage of established residential properties.
- iii. New or altered means of access to existing developments subject to the necessary consultations with the Highway Authority.
- iv. Shop fronts relating only to shopping uses outside and not affecting designated Conservation Areas.
- v. Fences, boundary walls and other means of enclosure to residential properties.
- vi. The approval of reserved matters relating to landscaping and external materials
- vii. Minor amendments to approved plans not determined by the Development Committee.
- viii. The temporary siting of caravans where an approved building is in the course of construction.
- ix. All extensions to residential buildings.
- x. Refusal because of Metropolitan Green Belt policy.
- xi. Changes of use in accordance with an appropriate formal planning policy or plan.
- xii. Applications for changes of use of land to private residential gardens.
- xiii. Advertisements outside Conservation Areas and/or which do not affect the character or setting of Listed Buildings.
- xiv. Listed Building Consent where a concurrent planning application is within the existing delegation scheme.
- xv. Listed Building Consents where the building work involved does not require planning permission.
- xvi. Applications under the prior notification procedures in Part 6 (agricultural development), Part 7 (forestry development) and Part 24 (telecommunications development) of Schedule 2 to the Town & Country Planning (General Permitted Development) Order 1995.
- xvii. Applications under the prior notification procedures in Part 31 (Demolition of Buildings) of Schedule 2 to the Town & Country Planning (General Permitted Development) Order 1995.
- xviii. Response to consultations on County Matter applications in consultation with the Chairman of the Development Committee and the Ward Members.
- xix. Response to consultations on Deemed County Council consent applications.
- xx. Response to consultations from neighbouring authorities unless the proposed development would have a major environmental impact on the District.

Exceptionally, where a delegated application raises controversial issues or significant community concern, the Assistant Director, Place & Environment shall advise the Chairman of the Development Committee, the Portfolio Holder for Strategic Planning and the Chairman of the Council, who may require that the application be reported to that Committee for determination.

3.9 To the Assistant Director, Transformation & Customer

To deputise for the Joint Chief Executive for Rochford District Council and Brentwood Borough Council and/or the Strategic Director and be the Responsible Officer for and take decisions and exercise discretion on matters within Transformation and Customer Services.

PART 4

RULES OF PROCEDURE

Council Procedure Rules

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1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and Business

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:-

- (i) accept that the senior officer present will preside, if the Chairman of Council is not present;
- (ii) elect the Chairman of Council;
- (iii) elect the Vice-Chairman of Council;
- (iv) approve the Minutes of the last Council meeting;
- (v) receive any announcements from the Chairman and/or Joint Head of Paid Service;
- (vi) elect the Leader should the office currently be vacant
- (vii) be told by the Leader about the composition and constitution of the executive for the coming year, the names of councillors he/she has chosen to be members of the Executive and the delegation of executive functions (as set out in Part 3B and C of this Constitution);
- (viii) appoint at least one Overview and Scrutiny Committee, a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to Council nor are executive functions (as set out in Part 3A of this Constitution);
- (ix) To agree the scheme of delegation or such part as the Constitution determines it is for the Council to agree (as set out in Part 3A and C of this Constitution);
- (x) Approve a programme of ordinary meetings of the Council for the year; and
- (xi) Consider any business set out in the notice convening the meeting.

1.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, Council will:-

- (i) decide which Committees to establish for the municipal year;

- (ii) decide the size and terms of reference for those Committees;
- (iii) decide the allocation of seats and substitutes to political groups in accordance with the political balance rules. (Should a Group Leader decide not to nominate to a seat for a Committee or Sub-Committee, the vacant seat may be opened up to other groups for nomination. However, that seat will remain with the original Group and can be managed by the Group Leader, i.e., they can remove that Member at any time);
- (iv) receive nominations of Councillors to serve on each Committee and outside bodies; and
- (v) appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive.

2. 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 Council meeting to be signed by the Chairman, subject to any agreed amendments;
- (iii) receive any declarations of interest from Members;
- (iv) receive any announcements from the Chairman, Leader or Joint Head of Paid Service;
- (v) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting (see section 10);
- (vi) receive petitions in accordance with the Council's petitions scheme contained in Part 5;
- (vii) deal with any Member questions on notice;
- (viii) deal with any business from the last Council meeting;
- (ix) receive reports from the Executive and the Council's Committees and receive questions and answers on any of those reports and on their work;
- (x) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;

consider Motions; and consider any other business specified in the summons to the meeting including any proposals from the Executive in relation to the Council's Budget and Policy Framework and reports of the Overview & Scrutiny Committee for debate.

3. EXTRAORDINARY MEETINGS

3.1 Calling Extraordinary Meetings

Those listed below may request the Joint Chief Executive to call Council meetings in addition to ordinary meetings:-

- (i) the Council by resolution;
- (ii) the Chairman of the Council;
- (iii) the Monitoring Officer; and
- (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.

4. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES

- 4.1 Substitute Members may be nominated for Committees or their Sub-Committees by each political group represented on the Committee or Sub-Committee and shall comprise a number no greater than the number equal to the number of ordinary Members nominated by a political group to that Committee or Sub-Committee.
- 4.2 A Substitute Member attending a meeting of a Committee or Sub-Committee has the same powers and responsibilities as a full Member of the Committee or Sub-Committee.
- 4.3 A Substitute Member attending a meeting is expected to have read all relevant papers and to be fully prepared to participate in the meeting.
- 4.4 A Member or Substitute Member first in attendance at a meeting of a Committee or Sub-Committee cannot be substituted or replaced during the course of that meeting.
- 4.5 Substitute Members may attend meetings in that capacity only:
 - (i) to take the place of the ordinary Member for whom they are the designated substitute.

In the event of the ordinary Member of the Committee or Sub-Committee being present at the start of the meeting, the ordinary Member may advise, prior to the start of the meeting, that the substitution shall not take place.

- 4.6 Substitute Members are not appropriate in the case of working parties.

5. TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the Joint Chief Executive and notified in the summons.

6. NOTICE OF AND SUMMONS TO MEETINGS

The Joint Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear working days before a meeting, the Joint Chief Executive will send a summons signed by him or her by first class post or electronic delivery to every Member of the Council or leave it at their usual place of residence. The 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.

7. CHAIRMAN OF MEETING

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 the Committee and Sub-Committee.

8. QUORUM

- 8.1 The quorum of a meeting will be one quarter of the whole number of Members rounded up. 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.

9. DURATION OF MEETING

Unless the majority of Members present vote for the meeting to continue, any meeting that has lasted for 2½ hours 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.

10. QUESTIONS BY THE PUBLIC

10.1 General

Members of the public may ask 1 question of Members of the Council at the direction of the Chairman, at ordinary meetings of the Council. The maximum time limit for asking each question is 3 minutes.

The total time for public questions shall not exceed 15 minutes with a maximum of 5 people.

10.2 Order of Questions

Questions will be asked in the order notice of them was received.

10.3 Notice of Questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Joint Chief Executive no later than midday 3 working days before the day of the meeting. Each question must:

- I. give the name and address of the questioner, and
- II. name the Member of the Council to whom it is to be put and,
- III. be relevant to items on the published agenda.

10.4 Number of Questions

At any one meeting no person may submit more than 1 question and no more than 2 such questions may be asked on behalf of one organisation.

10.5 Scope of Questions

The Joint Chief Executive in consultation with the Chairman may reject a question if it:-

- is not about a matter for which the local authority has a responsibility or which affects the district;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council or the Executive in the past six months; or
- requires the disclosure of confidential information.

10.6 Record of Questions

The Joint Chief Executive will enter each question in a book open to public inspection and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be circulated to all Members and will be made available to the public attending the meeting.

10.7 Asking the Question at the Meeting

The Chairman will invite the questioner to put the question. If a questioner who has submitted a written question is unable to be present, they may ask the Chairman to put the question on their behalf.

The Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

10.8 Supplemental Question

No supplemental questions may be asked.

10.9 Written Answers

Any question which cannot be dealt with during public question time will be dealt with by a written answer within 5 clear working days of the date of the meeting.

10.10 Reference of Question to the Executive or a Committee

Unless the Chairman decides otherwise, 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 the appropriate Committee or Sub-Committee. Once seconded, such a Motion will be voted on without discussion.

11. PETITIONS

11.1 Presentation of Petitions

A petition organiser or person acting on their behalf will be allowed a maximum 5 minutes to present a petition that has been properly submitted in accordance with the Council's petitions scheme.

11.2 Petitions Requiring Debate

Petitions with the requisite number of signatories will be allowed a maximum 15 minutes for debate.

No more than 4 petitions will be set down for debate at any one ordinary meeting of the Council.

11.3 Order of Petitions

Petitions will be presented in the order in which they are received unless the Chairman decides otherwise.

11.4 Response to Petitions Following Debate

The Council will decide how to respond to the petition at the meeting by either:-

- Taking the action requested in the petition.
- Not taking the action requested for reasons put forward in the debate.
- Commissioning further investigation into the matter, or
- Deciding whether to make recommendations where the matter falls to the Executive to make the final decision.

11.5 Notification of Response

The petition organiser will receive written confirmation of the decision made and this will be published on the Council's website.

12. QUESTIONS BY MEMBERS

12.1 On Reports of Committee

A Member of the Council may ask the Leader or the Chairman of a Committee any question without notice upon an item of the report of the Executive or a Committee when that item is being received or under consideration by the Council.

12.2 Questions on Notice at Full Council

A Member may only ask a question if either:-

- a) They have given at least 5 clear working days' notice in writing of the question to the Joint Chief Executive; or
- b) The question relates to urgent matters, they have the consent of the Chairman to whom the question is to be put and the content of the question is given to the Joint Chief Executive by midday on the day of the meeting.

A Member of the Council may ask:-

- The Chairman
- A Member of the Executive or
- The Chairman of any Committee or Sub-Committee

a question on any matter in relation to which the Council has powers or duties or which affects the district.

The Joint Chief Executive in consultation with the Chairman may reject a question if it is substantially the same as a question which has been put at a meeting of the Council or the Executive in the past six months.

12.3 Questions on Notice at Committees and Sub-Committees

A Member may only ask a question if either:-

- (a) they have given at least 5 clear working days' notice in writing of the question to the Joint Chief Executive; or
- (b) the question relates to urgent matters, they have the consent of the Chairman to whom the question is to be put and the content of the question is given to the Joint Chief Executive by midday on the day of the meeting.

A Member of a Committee or Sub-Committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the area and which falls within the terms of reference of that Committee or Sub-Committee.

12.4 Response

An answer may take the form of:-

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication;
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

12.5 Supplementary Questions

A Member asking a question 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.

13 MOTIONS ON NOTICE

13.1 Notice

Except for Motions which can be moved without notice under Rule 14, written notice of every Motion, on the authority of at least 2 Members, must be delivered to the Joint Chief Executive not later than 5 clear working days before the date of the meeting. These will be entered in a book open to public inspection.

13.2 Motion Set Out in Agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving

notice states, in writing, that they propose to move it to a later meeting or withdraw it.

13.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the District.

13.4 Officer Assistance

If Members considering the submission of a motion on notice require officer assistance for the preparation of supporting information to put to Council then they should contact the Joint Chief Executive at least 21 working days before the meeting to allow for preparation time with up to 3 notices per meeting depending on officer resource required.

Where officers are required to provide supporting information it will be available to the members submitting the motion at least 7 working days before the meeting and will be confined to background, factual or professional matters to be published as part of the report that sets out the motion. The availability of such information accords with the objective of adequate administrative, secretarial and research support to all Councillors irrespective of their position within the Council or their membership of the majority or minority groups.

14 MOTIONS WITHOUT NOTICE

The following Motions may be moved without notice:-

- (a) to appoint a Chairman of the meeting at which the Motion is moved;
- (b) in relation to the accuracy of the Minutes;
- (c) to change the order of business in the agenda;
- (d) to reduce the time allowed for speeches under rule 15.4;
- (e) to refer something to an appropriate body or individual;
- (f) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (g) to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- (h) to withdraw a Motion;
- (i) to amend a Motion;

- (j) to proceed to the next business;
- (k) that the question be now put;
- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) that the meeting continue beyond 2½ hours in duration;
- (o) to suspend a particular Council procedure rule;
- (p) to exclude the public and press in accordance with the Access to Information Rules;
- (q) to not hear further a Member named under Rule 21.4 (Member not to be heard further) or to exclude them from the meeting under Rule 21.5 (Member to leave the meeting); and
- (r) to give the consent of the Council where its consent is required by this Constitution.

15 RULES OF DEBATE

15.1 No Speeches Until Motion Seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the Motion has been seconded.

15.2 Right to Require Motion in Writing

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.

15.3 Seconders' Speech

When seconding a Motion or amendment, a Member may reserve their speech until later in the debate.

15.4 Content and Length of Speeches

Speeches must be directed to the question under discussion, to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chairman. Before commencement of the main business, a meeting may agree by a majority vote to a lesser time.

15.5 **When a Member May Speak Again**

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 (see paragraph 15.9);
- (e) on a point of order (see paragraph 15.12); and
- (f) by way of personal explanation (see paragraph 15.13).

15.6 **Amendments to Motions**

- (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.

- (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.
- (c) If an amendment is not carried, other amendments to the original Motion may be moved.
- (d) If an amendment is carried, the Motion as amended takes the place of the original Motion. This becomes the substantive Motion to which any further amendments are moved.
- (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.

15.7 Alteration of Motion

- (a) A Member may alter their Motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Member may alter their Motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

15.8 Withdrawal of Motion

A Member may withdraw their Motion which he/she has moved with the consent of both the meeting and the seconder. The meeting'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.

15.9 Right of Reply

- (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.
- (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.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

15.10 Motions Which May be Moved During Debate

When a Motion is under debate, no other Motion may be moved except the following procedural Motions:-

- (a) to withdraw a Motion;
- (b) to amend a Motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;

- (g) that the meeting continue beyond 2½ hours in duration;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a Member named under Rule 21.4 or to exclude them from the meeting under Rule 21.5.

15.11 Closure Motions

- (a) A Member may move, without comment, the following Motions at the end of a speech of another Member:-
 - (i) to proceed to the next business – if a Motion to proceed to the next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original Motion a right of reply and then put the procedural Motion to the vote.
 - (ii) that the question be now put – if a Motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural Motion to the vote. If it is passed he/she will give the mover of the original Motion a right of reply before putting his/her Motion to the vote.
 - (iii) to adjourn a debate – if a Motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman 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.

15.12 Point of Order

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 any 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.

15.13 Personal Explanation

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.

16 PREVIOUS DECISIONS AND MOTIONS

16.1 Motion to Rescind a Previous Decision

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 10 Members.

16.2 Motion Similar to One Previously Rejected

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 10 Members. Once the Motion or amendment is dealt with, no one can propose a similar Motion or amendment for six months.

17 VOTING

17.1 Majority

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.

17.2 Chairman's Casting Vote

If there are equal numbers of votes for and against, the Chairman will have a second or casting vote provided he or she has already exercised a substantive vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.

17.3 Show of Hands

Unless a recorded vote is demanded under Rule 17.4, the Chairman will take the vote by a show of hands and the numbers of those voting for or against a motion or abstaining from voting will be recorded in the minutes.

17.4 Recorded Vote

If one-fifth (rounded up) of the Members present at the meeting and entitled to vote stand to demand 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.

17.5 Right to Require Individual Vote to be Recorded

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.

17.6 Voting on Appointments

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.

18. MINUTES

18.1 Signing the Minutes

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.

18.2 No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting

There is no requirement to sign the minutes of a previous meeting at Extraordinary Council. The minutes will be signed at the next suitable meeting for the purposes of paragraph 41(1) and (2), Schedule 12 of the Local Government Act 1972.

18.3 Form of Minutes

Minutes will contain all Motions and amendments in the exact form and order the Chairman put them.

19. RECORD OF ATTENDANCE

All Members present during the whole or part of a meeting will be recorded by the Committee Administrator.

20. EXCLUSION OF PUBLIC AND PRESS

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 22 (Disturbance by Public).

21. MEMBERS' CONDUCT

21.1 Standing to Speak

When a Member speaks at Full Council they must stand and address the meeting through the Chairman. 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.

21.2 Chairman Standing

When the Chairman stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

21.3 Withdrawal from Meetings

If a Member has a Disclosable Pecuniary Interest in an item of business he/she must withdraw from the meeting room (including from the public gallery) during the whole of consideration of that item of business, except where he/she is permitted to remain as a result of the grant of a dispensation.

21.4 Member Not to be Heard Further

If a Member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructing business, the Chairman may move that the Member not be heard further. The Motion will be voted on without discussion.

21.5 Member to Leave the Meeting

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. The Motion will be voted on without discussion.

21.6 General Disturbance

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks fit.

22. DISTURBANCE BY PUBLIC

22.1 Removal of Member of the Public

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.

22.2 Clearance of Part of Meeting Room

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.

23. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

23.1 Suspension

All of these Council Rules of Procedure except this Rule and Rule 17.5 and 18.2 may be suspended by Motion on notice or without notice if at

least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

23.2 Amendment

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.

Committee and Sub Committee Procedure Rules

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1. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES

- 1.1 Substitute Members may be nominated for Committees or their Sub-Committees by each political group represented on the Committee or Sub-Committee and shall comprise a number no greater than the number equal to the number of ordinary Members nominated by a political group to that Committee or Sub-Committee.
- 1.2 A Substitute Member attending a meeting of a Committee or Sub-Committee has the same powers and responsibilities as a full Member of the Committee or Sub-Committee.
- 1.3 A Substitute Member attending a meeting is expected to have read all relevant papers and to be fully prepared to participate in the meeting.
- 1.4 A Member or Substitute Member first in attendance at a meeting of a Committee or Sub-Committee cannot be substituted or replaced during the course of that meeting.
- 1.5 Substitute Members may attend meetings in that capacity only:
 - (i) to take the place of the ordinary Member for whom they are the designated substitute.

In the event of the ordinary Member of the Committee or Sub-Committee being present at the start of the meeting, the ordinary Member may advise, prior to the start of the meeting, that the substitution shall not take place.

- 1.6 Substitute Members are not appropriate in the case of working parties.

2. TIME AND PLACE OF MEETINGS

- 2.1 The time and place of meetings will be determined by the Joint Chief Executive and notified in the summons

3. NOTICE OF AND SUMMONS TO MEETINGS

- 3.1 The Assistant Director, Legal & Democratic will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear working days before a meeting, the Assistant Director, Legal & Democratic will send a summons signed by him or her by first class post or electronic delivery to every Member of the Council or leave it at their usual place of residence. The 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.

4. CHAIRMAN OF MEETING

- 4.1 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 a Committee and Sub-Committee.

5. QUORUM

- 5.1 The quorum of a meeting will be one quarter of the whole number of Members rounded up. 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.

6. DURATION OF MEETING

Unless the majority of Members present vote for the meeting to continue, any meeting that has lasted for 2 1/2 hours 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.

7. QUESTIONS BY MEMBERS

7.1 Questions on Notice at Committees and Sub-Committees

A Member may only ask a question if either:-

- (a) they have given at least 5 clear working days' notice in writing of the question to the Joint Chief Executive; or
- (b) the question relates to urgent matters, they have the consent of the Chairman to whom the question is to be put and the content of the question is given to the Joint Chief Executive by midday on the day of the meeting.

A Member of a Committee or Sub-Committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the area and which falls within the terms of reference of that Committee or Sub-Committee.

7.2 Response

An answer may take the form of:-

- (d) a direct oral answer;
- (e) where the desired information is in a publication of the Council or other published work, a reference to that publication;
- (f) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

7.3 Supplementary Questions

A Member asking a question 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.

8. MOTIONS ON NOTICE

8.1 Notice

Except for Motions which can be moved without notice under Rule 9, written notice of every Motion, on the authority of at least 2 Members, must be delivered to the Joint Chief Executive not later than 5 clear working days before the date of the meeting. These will be entered in a book open to public inspection.

8.2 Motion Set Out in Agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

8.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the District.

8.4 Officer Assistance

If Members considering the submission of a motion on notice require officer assistance for the preparation of supporting information to put to Council then they should contact the Joint Chief Executive at least 21 working days before the meeting to allow for preparation time with up to 3 notices per meeting depending on officer resource required.

Where officers are required to provide supporting information it will be available to the Members submitting the motion at least 7 working days before the meeting and will be confined to background, factual or professional matters to be published as part of the report that sets out the motion. The availability of such information accords with the objective of adequate administrative, secretarial and research support to all Councillors irrespective of their position within the Council or their membership of the majority or minority groups.

9. MOTIONS WITHOUT NOTICE

The following Motions may be moved without notice:-

- (a) to appoint a Chairman of the meeting at which the Motion is moved;
- (b) in relation to the accuracy of the Minutes;
- (c) to change the order of business in the agenda;
- (d) to reduce the time allowed for speeches under rule 10.4;
- (e) to refer something to an appropriate body or individual;
- (f) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (g) to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- (h) to withdraw a Motion;
- (i) to amend a Motion;
- (j) to proceed to the next business;
- (k) that the question be now put;
- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) that the meeting continue beyond 2½ hours in duration;
- (o) to suspend a particular Council procedure rule;
- (p) to exclude the public and press in accordance with the Access to Information Rules;

- (q) to not hear further a Member named under Rule 16.3 (Member not to be heard further) or to exclude them from the meeting under Rule 16.4 (Member to leave the meeting); and
- (r) to give the consent of the Council where its consent is required by this Constitution.

10. RULES OF DEBATE

10.1 No Speeches Until Motion Seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the Motion has been seconded.

10.2 Right to Require Motion in Writing

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.

10.3 Seconders' Speech

When seconding a Motion or amendment, a Member may reserve their speech until later in the debate.

10.4 Content and Length of Speeches

Speeches must be directed to the question under discussion, to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chairman. Before commencement of the main business, a meeting may agree by a majority vote to a lesser time.

10.5 When a Member May Speak Again

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 (see paragraph 10.9);
- (e) on a point of order (see paragraph 10.12); and
- (f) by way of personal explanation (see paragraph 10.13).

10.6 Amendments to Motions

- (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.
- (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.
- (c) If an amendment is not carried, other amendments to the original Motion may be moved.
- (d) If an amendment is carried, the Motion as amended takes the place of the original Motion. This becomes the substantive Motion to which any further amendments are moved.
- (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.

10.7 Alteration of Motion

- (a) A Member may alter their Motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Member may alter their Motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

10.8 Withdrawal of Motion

A Member may withdraw their Motion which he/she has moved with the consent of both the meeting and the seconder. The meeting'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.

10.9 **Right of Reply**

- (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.
- (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.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

10.10 **Motions Which May be Moved During Debate**

When a Motion is under debate, no other Motion may be moved except the following procedural Motions:-

- (a) to withdraw a Motion;
- (b) to amend a Motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) that the meeting continue beyond 2½ hours in duration;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a Member named under Rule 16.3 or to exclude them from the meeting under Rule 16.4.

10.11 **Closure Motions**

- (a) A Member may move, without comment, the following Motions at the end of a speech of another Member:-
 - (i) to proceed to the next business - If a Motion to proceed to the next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original Motion a right of reply and then put the procedural Motion to the vote.
 - (ii) that the question be now put - If a Motion that the question be now put is seconded and the Chairman thinks the item has

been sufficiently discussed, he/she will put the procedural Motion to the vote. If it is passed he/she will give the mover of the original Motion a right of reply before putting his/her Motion to the vote.

- (iii) to adjourn a debate; or to adjourn a meeting - If a Motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman 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.

10.12 Point of Order

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 any 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.

10.13 Personal Explanation

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.

11. PREVIOUS DECISIONS AND MOTIONS

11.1 Motion to Rescind a Previous Decision

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 10 Members.

11.2 Motion Similar to One Previously Rejected

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 10 Members. Once the Motion or amendment is dealt with, no one can propose a similar Motion or amendment for six months.

12. VOTING

12.1 Majority

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.

12.2 Chairman's Casting Vote

If there are equal numbers of votes for and against, the Chairman will have a second or casting vote provided he or she has already exercised a substantive vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.

12.3 Show of Hands

Unless a recorded vote is demanded under Rule 12.4, the Chairman will take the vote by a show of hands.

12.4 Recorded Vote

If one-fifth (rounded up) of the Members present at the meeting and entitled to vote stand to demand 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.

12.5 Right to Require Individual Vote to be Recorded

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.

12.6 Voting on Appointments

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.

13. MINUTES

13.1 Signing the Minutes

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.

13.2 No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting

There is no requirement to sign the minutes of a previous meeting at Extraordinary Council. The minutes will be signed at the next suitable meeting for the purposes of paragraph 41(1) and (2), Schedule 12 of the Local Government Act 1972.

13.3 Form of Minutes

Minutes will contain all Motions and amendments in the exact form and order the Chairman put them.

14. RECORD OF ATTENDANCE

All Members present during the whole or part of a meeting will be recorded by the Democratic Services Officer.

15. EXCLUSION OF PUBLIC AND PRESS

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 17 (Disturbance by Public).

16. MEMBERS' CONDUCT

16.1 Chairman Standing

When the Chairman stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

16.2 Withdrawal from Meetings

If a Member has a Disclosable Pecuniary Interest in an item of business he/she must withdraw from the meeting room (including from the public gallery) during the whole of consideration of that item of business, except where he/she is permitted to remain as a result of the grant of a dispensation.

16.3 Member Not to be Heard Further

If a Member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructing business, the Chairman may move that the Member not be heard further. The Motion will be voted on without discussion.

16.4 Member to Leave the Meeting

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. The Motion will be voted on without discussion.

16.5 General Disturbance

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks fit.

17. DISTURBANCE BY PUBLIC

17.1 Removal of Member of the Public

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.

17.2 Clearance of Part of the Meeting Room

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.

18. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

18.1 Suspension

All of these Council Rules of Procedure except this Rule and Rule 12.5 and 13.2 may be suspended by Motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

18.2 Amendment

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.

Access to Information Procedure Rules

ACCESS TO INFORMATION PROCEDURE RULES

1. Scope

Unless otherwise stated these rules apply to all meetings and Sub-Committee meetings of the Council, the Overview & Scrutiny Committee, the Standards Committee, other Committees and the Executive (together called meetings). They do not apply to working groups, which have no delegated authority.

2. Additional Rights to Information

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

3. Rights to Attend Meetings

Members of the public may attend all meetings, subject only to the exceptions in these rules (see rule 10).

4. Notice of Meetings

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at the Council Offices, South Street, Rochford and Civic Suite, Hockley Road, Rayleigh; the designated offices and the Council's website. For meetings of the Executive details will also be posted on the Council's website at least five clear days before the meeting.

5. Access to Agenda and Reports Before the Meeting

The Council will make copies of the agenda and reports open to the public available for inspection at the designated offices and the Council's website at least five clear days before the meeting. For meetings of the Executive copies of agendas and reports will also be posted on the Council's website at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors).

6. Supply of Copies

The Council will supply copies of:-

- (a) any agenda and reports that are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and

- (c) paper copies of the documents supplied to Councillors, save for any exempt papers, can be supplied to residents on payment of a charge for postage and any other costs as set out in the Council's Fees and Charges. There will be no costs if the papers are sent in an electronic format.

7. Access to Minutes etc After the Meeting

The Council will make available copies of the following for six years after a meeting after which they will be available from the Essex Records Office:-

- (a) the minutes of the meetings of Council, the Executive, Committees and Sub-Committees and the records of Executive decisions taken, together with reasons, excluding any part of the minutes of proceedings that were 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 when the meeting was open to the public.

All agendas, reports and minutes that are open to the public are available on the Council's website at www.rochford.gov.uk.

8. Background Papers

8.1 List of Background Papers

The officer responsible 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/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 (as defined in Rule 10).

8.2 Public Inspection of Background Papers

The Council will make available for public inspection for four years after the date of a meeting one copy of each of the documents on the list of

background papers. For Executive meetings one copy of each of the documents listed as background papers will be on the Council's website.

9. Summary of Public's Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council Offices, Rochford and Rayleigh and on the Council's website.

10. Exclusion of Access by the Public to Meetings

10.1 Confidential Information – Requirement to Exclude Public

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.

10.2 Meaning of Confidential Information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information that cannot be publicly disclosed by Court Order.

10.3 Exempt Information – Discretion to Exclude Public

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 and the public interest in maintaining the exemption would outweigh the public interest in disclosing it.

Where a meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 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 Article 6.

10.4 The Public Interest

The public interest test is that used by the Freedom of Information Act which provides that 'in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.'

10.5 Meaning of Exempt Information

Exempt information means information falling within the following 10 categories (subject to any condition).

Information falling within paragraphs 1 – 7 (which is not prevented from being exempt information by conditions) 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:-

CATEGORY	CONDITION
1 Information relating to an individual.	
2 Information which is likely to reveal the identity of an individual.	
3 Information relating to the financial or business affairs of any person (including the authority holding that information).	<p>“Financial or business affairs” includes contemplated as well as past or current activities.</p> <p>Information is not exempt information under this paragraph if it is required to be registered under the Companies Acts (as defined in section 2 of the Companies Act 2006); the Friendly Societies Act(s) 1974 & 1992; the Industrial and Provident Societies Acts 1965 to 1978; the Co-Operative and Community Benefit Societies Act 2014; the Building Societies Act 1986; or the Charities Act 2011.</p>
4 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.	<p>“Employee” means a person employed under a contract of service.</p> <p>“Labour relations matter” means matters which may be the subject of a trade dispute within the meaning of current legislation or any dispute about such matters.</p>
5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	

CATEGORY	CONDITION
6 Information that reveals that the authority proposes:– (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	
7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of a crime.	

Information falling within any of paragraphs 1 - 7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

In respect of the Standards Committee or a Sub-Committee of the Standards Committee exempt information also means information falling within the following 3 categories:-

CATEGORY	CONDITION
8 Information which is subject to any obligation of confidentiality.	
9 Information which relates in any way to matters concerning national security.	
10 The deliberations of the Standards Committee or a Sub-Committee of the Standards Committee established under the provisions of Part III of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 64(2) or 71(2) of the Local Government Act 2000.	

11. Exclusion of Access by the Public to Reports

If the Proper Officer thinks fit, the Council may exclude access by the public to reports which, in his or her opinion, relate to items during which, in accordance with Rule 10, the meeting is likely not to be open

to the public. Such reports will be marked 'Not for publication', together with the category of information likely to be disclosed.

An annual review of any exempt report of the Council can be considered for release by the Monitoring Officer, in consultation with the Joint Chief Executive, subject to the Public Interest Test and the rules under the Freedom of Information Act 2000.

12. Application of Rules to the Executive

Rules 13–24 apply to the Executive and its Committees. If the Executive or its Committees meet to take a key decision then it must also comply with Rules 1-11 unless Rule 15 (General Exceptions) or Rule 16 (Special Urgency) apply. A key decision is as defined in Article 12.03 of this Constitution.

If the Executive or its Committees as a body meet to discuss a key decision to be taken collectively with an officer other than a political assistant present, within 28 days of the date according to the Key Decision Document by which it is to be decided, then it must also comply with Rules 1 - 11 unless Rule 15 (General Exception) or Rule 16 (Special Urgency) apply. This requirement does not include meetings whose sole purpose is for officers to brief Members.

13. Procedure Before Taking Key Decisions

Subject to Rule 15 (General Exception) and Rule 16 (Special Urgency), a key decision may not be taken unless:-

- (a) a document (called here a Key Decision Document) has been published in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the Key Decision Document; and
- (c) where the decision is to be taken at a meeting of the Executive or its Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. Key Decision Document

14.1 Period of Document

The Key Decision Document will be published and available for inspection on the Council's website and at the designated offices at least 28 clear days before a key decision is made.

14.2 Contents of Document

The document will state:-

- (a) That a key decision is to be made on behalf of the Council;
- (b) the matter in respect of which the decision is to be made;
- (c) where the decision taker is an individual, that individual's name and title if any and, where the decision maker is a decision-making body, its name and list of its members;
- (d) the date on which, or the period within which, the decision will be made;
- (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision maker; and
- (h) the procedure for requesting details of those documents (if any) as they become available;
- (i) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The Document must contain particulars of the matter but may not contain any confidential or exempt information or the advice of a political adviser or assistant.

15. General Exception

If a matter that is likely to be a key decision has not been included in the Key Decision Document then, subject to Rule 16 (Special Urgency), the decision may only be made:-

- (a) where the Proper Officer has informed the Chairman of the Overview & Scrutiny Committee or, if there is no such person, each member of the Overview & Scrutiny Committee by notice in writing, of the matter about which the decision is to be made;
- (b) where the Proper Officer has made available at the offices of the Council for inspection by the public and published on the Council's website a copy of the notice given pursuant to sub-paragraph (a); and
- (c) after five clear days have elapsed following the day on which the Proper Officer made available the notice referred to in sub-paragraph (b).

As soon as reasonably practicable after the Proper Officer has complied with the above, he or she must:-

- (a) make available at the offices of the Council a notice setting out the reasons why compliance with Rule 14 was impracticable; and
- (b) publish that notice on the Council's website.

16. Special Urgency

Where the date by which a key decision must be made makes compliance with Rule 15 impracticable, the decision may only be made where the decision maker has obtained agreement from:-

- (a) the Chairman of the Overview & Scrutiny Committee; or
- (b) if the Chairman of the Overview & Scrutiny Committee is unable to act, the Chairman of the Council; or
- (c) where there is no Chairman of either the Overview & Scrutiny Committee or the Council, the Vice-Chairman of the Council,

that the making of the decision is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after the decision maker has obtained agreement that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must:-

- (a) make available at the offices of the Council a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred; and
- (b) publish that notice on the Council's website.

17. Report to Council

17.1 Where an executive decision has been made and:-

- (a) was not treated as being a key decision; and
- (b) The Overview & Scrutiny Committee is of the opinion that the decision should have been treated as a key decision,

the Overview & Scrutiny Committee may require the Executive which is responsible for the decision to submit a report to the Council within such reasonable period as the Committee may specify. A report must include details of:-

- (a) The decision and the reasons for the decision;
- (b) The decision maker by which the decision was made; and

- (c) If the Executive are of the opinion that the decision was not a key decision, the reasons for that opinion.

17.2 Executive Reports to Council

The Leader must submit to the next appropriate meeting of Council a report containing details of each executive decision taken during the period since the last report was submitted to the Council where the making of the decision was agreed as urgent in accordance with Rule 16. A report submitted for this purpose must include:-

- (a) particulars of each decision made; and
- (b) a summary of the matters in respect of which each decision was made.

The Leader must submit at least one report annually to the Council.

18. Record of Decisions

As soon as reasonably practicable after any meeting of a decision-making body at which an executive decision was made, the Proper Officer, or if the Proper Officer was not present at the meeting, the person presiding, must ensure that a written statement is produced for every Executive decision made which includes:-

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council's Monitoring Officer.

19. Executive Meetings Relating to Matters Which are not Key Decisions

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

20. Notice of Private Meeting of the Executive

Members of the Executive 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.

21. Private Meetings of the Executive

- (a) The procedures prior to private meetings set out under paragraph 5 of Part 2 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 must be followed.
- (b) All Members of the Executive will be served notice of all private meetings of Committees of the Executive, whether or not they are Members of that Committee.
- (c) All Members of the Executive are entitled to attend a private meeting of any Committee of the Executive.
- (d) The Joint Head of Paid Service, the Chief Financial Officer, the Monitoring Officer and their nominees are entitled to attend any meeting of the Executive and its Committees. The Executive may not meet unless the Joint Chief Executive has been given reasonable notice that a meeting is to take place.
- (e) A private Executive meeting may only take place in the presence of the Joint Chief Executive or his/her nominee with responsibility for recording and publicising the decisions.

22. Decisions by Individual Members of the Executive

22.1 Reports Intended to be Taken into Account

Where an individual Member of the Executive receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least 5 clear days after receipt of that report.

22.2 Provision of Copies of Reports to the Overview & Scrutiny Committee

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of the Overview & Scrutiny Committee as soon as reasonably practicable and make it publicly available at the same time.

22.3 Record of Individual Decision

As soon as reasonably practicable after an individual Member or officer

has made an Executive decision, that person must produce or instruct the Proper Officer to produce a written statement of that Executive decision which includes:-

- (a) a record of the decision including the date it was made;
- (b) a record of reasons for the decision;
- (c) details of any alternative options considered and rejected when making the decision;
- (d) a record of any conflict of interest declared by any Executive Member who is consulted by the Member or officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council's Monitoring Officer.

23. Overview & Scrutiny Committee's Access to Documents

23.1 Rights to Copies

Subject to Rule 23.2 below, a Member of the Overview & Scrutiny Committee is entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to:-

- (a) any business transacted at a meeting of a decision-making body of the Council; or
- (b) any decision taken by an individual Member of the Executive or an officer in accordance with Executive arrangements.

23.2 Limit on Rights

A Member of the Overview & Scrutiny Committee will not be entitled to a copy of any such document or part of a document as contains exempt or confidential information and the public interest in maintaining the exemption outweighs the public interest in disclosing it, unless that information is relevant to:-

- (a) an action or decision that that Member is reviewing or scrutinising; or
- (b) any review contained in any programme of work of such a Committee or Sub-Committee of such a Committee; or
- (c) a document or part of a document containing advice provided by a political adviser or assistant.

Where the Executive determines that a member of the Overview & Scrutiny Committee is not entitled to a copy of a document or part of any such document requested under Rule 23.1, it must provide the Overview & Scrutiny Committee with a written statement setting out its reasons for that decision.

24. Additional Rights of Access for Members

24.1 Material Relating to Business

All Members will be entitled to inspect any document that is in the possession or under the control of the Executive or its Committees and contains material relating to any business to be transacted or previously transacted at a public or private meeting unless:-

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information; or
- (b) it contains exempt information falling within paragraph 3 of the categories of exempt information and that information relates to any terms proposed or to be proposed by or to the Authority in the course of negotiations for a contract; or
- (c) it contains the advice of a political adviser.

24.2 Material Relating to Key Decisions

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 Executive or its Committees which relates to any key decision unless paragraph (a) or (b) of 24.1 above applies.

24.3 Nature of Rights

These rights of a Member are additional to any other right he/she may have.

25. Freedom of Information Act 2000

The Council will publish documents mentioned in its Publication Scheme approved by the Information Commissioner. Copies of the scheme are available on the Council's website or from the Assistant Director, Legal & Democratic.

Budget and Policy Framework Procedure Rules

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. The Framework for Executive Decisions

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Executive to implement it.

2. Process for Developing the Framework

The process by which the budget and policy framework shall be developed is:-

- (a) After consulting stakeholders in a manner appropriate to the matter under consideration, the Executive will draw up initial proposals in relation to any plan, strategy or budget which forms part of the Council's budget and policy framework. Once drawn up, the Proper Officer will serve copies of them on the Chairman of the Overview & Scrutiny Committee, together with dates when the Executive will consider them further, which shall be at least 6 weeks after service of the notice on the Chairman.
- (b) The Overview & Scrutiny Committee will be convened within 14 days to consider whether to respond to the Executive's initial proposals and whether any consultation by it is appropriate. If so, the Overview & Scrutiny Committee will conduct a consultation exercise and will reflect any representations made to it in its response to the Executive within the timescale set for decision by the Executive.
- (c) The Executive will finalise its proposals for the Council to consider, having taken into account the comments from the Overview & Scrutiny Committee. The report to Council will show the Executive's response to those comments.
- (d) The Council will consider the proposals of the Executive and may adopt them, amend them, refer them back to the Executive for further consideration, or substitute its own proposals in their place.
- (e) The Council's decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Executive's proposal without amendment) or (if the Executive's proposal is not accepted without amendment), that the Council's decision will become effective on the expiry of 5 working days after the publication of the notice of decision, unless the Leader formally objects in that period.

- (f) If the Leader objects to the decision of the Council, he/she shall give written notice to the Joint Chief Executive to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Joint Chief Executive shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- (g) The Council meeting must take place within 14 working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- (h) The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Article 4, and shall be implemented immediately.
- (i) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Executive, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.

3. Decisions Outside the Budget or Policy Framework

- (a) Subject to the provisions of paragraph 5 (virement) the Executive, Committees of the Executive, individual Members of the Executive and any officers, or joint arrangements discharging Executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by Full Council, then that decision may only be taken by the Council, subject to 4 below.
- (b) If the Executive, Committees of the Executive, individual Members of the Executive and any officers or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision,

unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

4. Urgent Decisions Outside the Budget or Policy Framework

- (a) The Executive, a Committee of the Executive, an individual Member of the Executive or officers or joint arrangements discharging Executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:-
 - (i) if it is not practical to convene a quorate meeting of the Full Council; and
 - (ii) if the Chairman of the Overview & Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of Full Council and the Chairman of the Overview & Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the Overview & Scrutiny Committee the consent of the Chairman of the Council, and in the absence of both, the Vice-Chairman will be sufficient.

- (b) Following the decision, the decision taker will provide a full 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.

5. Virement

Financial Regulations shall provide a Scheme of Virement to enable the Executive, other Committees, Chief Officers and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by full Council and therefore to optimise the use of resources.

6. In-Year Changes to Policy Framework

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Executive, a Committee of the Executive, an individual Member of the Executive or officers or joint arrangements discharging Executive functions must be in line with it. No changes to any policy and strategy which makes up the policy

framework may be made by the Executive or a Committee or officer with delegated authority except those changes:-

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or Government guidance;
- (c) in relation to the policy framework in respect of a policy which would normally be agreed by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

7. Call-in of Decisions Outside the Budget or Policy Framework

- (a) Where the Overview & Scrutiny Committee is of the opinion that an Executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Financial Officer.
- (b) In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Financial Officer's report shall be to the Executive with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Financial Officer conclude that the decision was a departure, and to the Overview & Scrutiny Committee if the Monitoring Officer or the Chief Financial Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Financial Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview & Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 14 days of the request by the Overview & Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer. The Council may either:-
 - (i) endorse a decision or proposal of the Executive as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or

- (ii) amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way;
- (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer or the Chief Financial Officer.

Executive Procedure Rules

EXECUTIVE PROCEDURE RULES

1. Executive Decisions

1.1 Who May Make Executive Decisions?

Functions which are the responsibility of the Executive may be exercised by the Leader. The Leader may also delegate authority to exercise those functions to the extent he/she wishes:-

- i) to the Executive as a whole;
- ii) to a Committee of the Executive;
- iii) to an individual Member of the Executive;
- iv) to an officer;
- v) to joint arrangements; or
- vi) to another local authority.

1.2 Delegation by the Executive

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's Scheme of Delegation. The document presented by the Leader must contain the following information in so far as they relate to executive functions:

- i) the names, addresses and Wards of the people appointed to the Executive by the Leader;
- ii) the extent of any authority delegated to those Executive Members individually, including details of the limitation on their authority;
- iii) the terms of reference and constitution of any such Executive Committees as the Leader appoints and the names of the Executive Members he/she appoints to them;
- iv) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of any Executive Member appointed to any joint committee for the coming year; and
- v) the nature and extent of any delegation of executive functions to officers with details of any limitation on that delegation and the title of the officer to whom the delegation is made.

1.3 Sub-delegation of Executive functions

- (a) If the Leader delegates functions to the Executive, and unless he/she directs otherwise, then the Executive may delegate further to a Committee of the Executive, to an officer, to any joint arrangements or to another authority.
- (b) If the Leader delegates functions to a Committee of the Executive, and unless he/she directs otherwise, then the Committee may delegate further to an officer.

- (c) Where Executive functions have been delegated, the fact does not prevent the discharge of delegated functions by the person or body who delegated them.

1.4 The Council's Scheme of Delegation and Executive Functions

The Council's scheme of delegation will be adopted by the Council at its annual meeting. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.

During the year amendments to the Scheme of Delegation in relation to executive functions may be effected as follows:

- (a) The Leader may amend the Scheme of Delegation of executive functions at any time during the year. To do so, the Leader must give written notice to the proper officer and report these changes to the next ordinary meeting of the Council. Where the Leader wants to withdraw or amend delegation to a Committee, notice will be served on that Committee when it is served on its Chairman.
- (b) The notice will set out the extent of the proposed amendments to the Scheme of Delegation, and whether this entails the withdrawal of any delegation from any person, body, Committee or Executive as a whole. The amendments will take effect on the service of the notice on the proper officer.

1.5 Conflicts of Interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every Member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

1.6 Executive Meetings

The Executive will meet at least four times a year at times to be agreed by the Leader. The Executive shall meet at the Civic Suite offices or another location to be agreed by the Leader.

1.7 Public/Private Meetings of the Executive

The Access to Information Rules in part 4 of this Constitution set out the requirements covering public and private meetings.

1.8 Quorum

The quorum for a meeting of the Executive, or a committee of it, shall be three Members of the Executive (including the Leader and/or Deputy Leader).

1.9 How are decisions taken by the Executive

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a Committee of the Executive, the rules applying to executive decisions by them shall be the same as those applying to those taken by the Executive as a whole.

2. Executive Meetings

2.1 Who Presides?

If the Leader is present he/she will preside. In his/her absence, the Deputy Leader shall preside. If neither is present, then a person appointed to do so by those present shall preside.

2.2 Who May Attend?

These details are set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

2.3 Order of Agenda

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) questions on notice from Councillors, as set out in the Executive Procedure Rules in Part 4 of this Constitution, in paragraph 3 below;
- (iv) matters referred to the Executive (whether by the Overview & Scrutiny Committee or by Full Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview & Scrutiny Committee Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;

- (v) consideration of reports from other Committees; and matters set out in the agenda for the meeting and which shall indicate which are key decisions and which are not in accordance with the Access to Information Rules set out in Part 4 of this Constitution.

2.4 Consultation

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

2.5 Items on the Executive Agenda

The Leader will decide upon the schedule for the meetings of the Executive. The Leader may put on the agenda of any Executive meeting any matter, whether or not authority has been delegated to the Executive in respect of that matter. The Proper Officer will comply with the Leader's request in this respect.

Any Member of the Executive may propose to the Leader the inclusion of any item for the next available meeting of the Executive. The Proper Officer will comply with the requests of the Leader for inclusion of items on the agenda.

The Proper Officer will make sure that an item is placed on the agenda of the next available meeting of the Executive where the Overview & Scrutiny Committee or the Full Council have resolved that an item be considered by the Executive.

Any Member of the Council may ask the Leader to put an item on the agenda of an Executive meeting for consideration, and if the Leader agrees, the item will be considered at the next available meeting of the Executive. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. (This individual will be invited to attend the meeting, whether or not it is a public meeting. However, there may be only 3 such items per Executive meeting.)

The Monitoring Officer and/or the Chief Finance 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 Joint Head of Paid Service, Chief Finance 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 the Executive meeting.

If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

3 Questions by Members at meetings of the Executive

3.1 Questions on Notice at meetings of the Executive

Non-Executive Members of the Council may submit questions of the Leader or a Member of the Executive on any agenda item due to be considered at the meeting that falls within the terms of the remit of that Member. This is subject to Councillors observing all relevant rules on the disclosure of interests. There will be a maximum of 3 Member questions at each meeting of the Executive; the total time for questions (including supplementary questions and responses, and any clarification) shall not exceed 30 minutes.

Members can also ask questions on behalf of their constituents.

3.2 Notice of Questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Joint Chief Executive no later than midday 2 working days before the day of the meeting. Each question must:

- IV. give the name of the Member, and
- V. name the Member of the Executive to whom it is to be put and,
- VI. be relevant to items on the published agenda.

3.3 Order of Questions

Questions will be asked in the order notice of them was received.

3.4 Scope of Questions

The Joint Chief Executive, in consultation with the Leader, may reject a question if it is substantially the same as a question that has been put at a meeting of the Council or the Executive in the past six months.

Where it is considered that the question or the answer is likely to disclose confidential or exempt information, the question will be reserved until the exempt part of the agenda.

3.5 Record of Questions

Copies of all questions will be circulated to all Members and will be made available to the public attending the meeting.

3.6 Asking the Question at the Meeting

The Leader will invite the Member who has submitted a written question to put the question. If that Member is unable to be present, they may ask the Leader to put the question on their behalf.

3.7 Response

An answer may take the form of:-

- (g) a direct oral answer;
- (h) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner. Any question that cannot be dealt with at the meeting will be dealt with by a written answer within 5 clear working days of the date of the meeting.

3.8 Supplementary Questions

A Member asking a question may ask one supplementary question without notice of the Executive Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

Overview & Scrutiny Committee Procedure Rules

OVERVIEW & SCRUTINY COMMITTEE PROCEDURE RULES

1. The Council will appoint one Overview & Scrutiny Committee which will perform all overview and scrutiny functions on behalf of the Council. The Overview & Scrutiny Committee may appoint Sub-Committees.
 - (a) The Overview & Scrutiny Committee will consist of fifteen Members of the Council.
 - (b) Within its remit under Article 6 of this Constitution the terms of reference of the Overview & Scrutiny Committee will be:-
 - i) the performance of all Overview and Scrutiny functions on behalf of the Council.
 - ii) the appointment of such Sub-Committees as it considers appropriate to fulfil those Overview and Scrutiny functions;
 - iii) to receive reports from the Leader at its first meeting after each Annual Council meeting on the Council's priorities for the coming year and its performance in the previous year;
 - iv) to approve an annual Overview & Scrutiny Committee work programme, including the programme of any Sub-Committees it appoints so as to ensure that the Committee's and Sub-Committee's time is effectively and efficiently utilised;
 - v) where matters fall within the remit of more than one Overview & Scrutiny Committee Sub-Committee, to determine which of those Sub-Committees will assume responsibility for any particular issue;
 - vi) to put in place a system to ensure that referrals from Overview & Scrutiny Committee to the Executive either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution;
 - vii) in the event of reports to the Executive exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of the Executive or jeopardises the efficient running of Council business at the request of the Executive, to make decisions about the priority of referrals made.
 - viii) To monitor the Council's budget, both in respect of forward planning and medium term financial strategy, including in depth review and analysis of not just policy issues, but also specific areas of work.

- ix) Where appropriate, to conduct joint reviews with adjoining Councils.

2. **Who May sit on the Overview & Scrutiny Committee?**

All Councillors except Members of the Executive may be Members of the Overview & Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

3. **Co-optees**

The Overview & Scrutiny Committee shall be entitled to recommend to Council the appointment of non-voting co-optees.

4. **Meetings of the Overview & Scrutiny Committee**

There shall be at least ten ordinary meetings of the Overview & Scrutiny Committee in each year. Additional meetings may be called from time-to-time as and when appropriate. A Overview & Scrutiny Committee meeting may be called by the Chairman of the Overview & Scrutiny Committee, by any four Members of the Committee or by the Proper Officer if he/she considers it necessary or appropriate.

5. **Quorum**

The quorum for a Overview & Scrutiny Committee shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution.

6. **Who Chairs Overview & Scrutiny Committee Meetings?**

The Chairman of the Overview & Scrutiny Committee will be drawn from among the opposition Councillors sitting on the Committee and, subject to this requirement, the Council may appoint such a person as it considers appropriate as Chairman.

7. **Work Programme**

The Overview & Scrutiny Committee will be responsible for setting its own work programme and in doing so it shall take into account the wishes of Members of that Committee.

8. **Agenda Items**

- 8.1 Any Member of the Overview & Scrutiny Committee shall be entitled to give 5 working days 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 of the Committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.

- 8.2 Any 2 Members of the Council who are not Members of the Overview & Scrutiny Committee may give 5 working days written notice to the Proper Officer that they wish an item to be included on the agenda of the Overview & Scrutiny Committee. If the Proper Officer receives such a notification, then he/she will include the item on the first available agenda of the Committee for consideration.
- 8.3 The Overview & Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and if it considers it appropriate the Executive to review particular areas of Council activity. Where it does so, the Overview & Scrutiny Committee shall report its findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the Overview & Scrutiny Committee at the next available meeting.

9. Policy Review and Development

- (a) The role of the Overview & Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview & Scrutiny Committee may make proposals to the Executive for developments in so far as they relate to matters within its terms of reference.
- (c) The Overview & Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. It may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. It may ask witnesses to attend to address it on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.
- (d) The Overview & Scrutiny Committee can form task and finish groups or working groups to study issues in more depth should the Committee feel it is necessary. The Committee will appoint the Members of these groups. A task and finish group will follow the rules relating to Sub-Committees apart from not being subject to the pro rata rules. Working groups will not meet in public, not have public agendas and minutes and will not have Substitute Members.

10. Reports from the Overview & Scrutiny Committee

- (a) Once the Overview & Scrutiny Committee has formed recommendations on proposals under paragraph 9 above, the Proper Officer will submit its formal report for consideration by the Executive or, if the Overview & Scrutiny Committee so requests, by the Council (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If the Overview & Scrutiny Committee cannot agree on one single final report to the Council or the Executive as appropriate, then minority reports may be prepared and submitted for consideration by the Council or Executive with the majority report.
- (c) The Council or Executive shall consider the report of the Overview & Scrutiny Committee at the next available meeting after it is submitted to the Proper Officer.

11 Making Sure that Overview & Scrutiny Committee Reports are Considered by the Executive

The agenda for the Executive meetings shall include an item entitled "Issues arising from the Overview & Scrutiny Committee". The reports of the Overview & Scrutiny Committee referred to the Executive shall be included at this point in the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda) of the next available Executive or Council after the Overview & Scrutiny Committee has completed its report/recommendations.

12. Rights of Overview & Scrutiny Committee Members to Documents

- (a) All Councillors have the right to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution as well as any specific rights they may have as Members.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and Overview & Scrutiny Committee as appropriate, depending on the particular matter under consideration.

13. Members and Officers Giving Account

- (a) The Overview & Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the Scrutiny role, it may require any Member of the Executive and/or any senior officer to attend before it to explain in relation to matters within their remit:-
 - i) any particular decision or series of decisions;

- ii) the extent to which the actions taken implement Council policy; and/or
- iii) their performance

and it is the duty of those persons to attend if so required.

- (b) Where any Member or officer is required to attend a Overview & Scrutiny Committee under this provision, the Chairman of the Committee will inform the Proper Officer. The Proper Officer shall inform the Member or officer in writing giving at least 5 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 he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, the Overview & Scrutiny Committee shall, in consultation with the Member or officer, arrange an alternative date for attendance to take place at an agreed date.

14. Attendance by Others

The Overview & Scrutiny Committee may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and shall invite such people to attend.

15. Call-In

Call-in should only be used in exceptional circumstances.

- (a) When a decision is made by the Executive or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available to all Members of the Council within two days of being made.
- (b) The decision notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless called in by the Overview & Scrutiny Committee.
- (c) During that period, the Proper Officer shall:-
 - (i) call in a decision for scrutiny by the Overview & Scrutiny Committee if so requested by the Chairman or any 3 Members of that Committee

and shall then notify the Chairman of the Executive of the call-in.

(d) Having considered the decision, if the Overview & Scrutiny Committee still has concerns, then the Committee may refer the matter back to be re-considered by the Executive setting out the nature of its concerns in writing or refer the matter direct to the next Full Council also setting out the nature of its concerns.

- (e) Any matter referred to Full Council by the Overview & Scrutiny Committee shall be included for debate on the agenda of the next ordinary Full Council meeting.

Call-In and Urgency

- (f) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused would, for example, seriously prejudice the interest of the Council or the public.
- (g) The record of the decision, and notice by which it is made public, shall state whether, in the opinion of the Executive the decision is an urgent one and therefore not subject to call-in. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (h) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

16. The Party Whip

When considering any matter in respect of which a Member of the Overview & Scrutiny Committee is subject to a party whip the Member must declare the existence of the whip, and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

17. Procedure at Overview & Scrutiny Committee Meetings

- (a) the Overview & Scrutiny Committee shall consider the following business:-
- i) minutes of the last meeting;
 - ii) declarations of interest (including whipping declarations);
 - iii) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;

- iv) responses of the Executive to reports of the Overview & Scrutiny Committee; and
 - v) the business otherwise set out on the agenda for the meeting.
- (b) Where the Overview & Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:-
- i) that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee shall prepare a report for submission to the Executive and/or Council as appropriate and shall make its report and findings public.

Financial Regulations

Financial Regulations

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In the following Regulations all amounts quoted shall be net of Value Added Tax.

1. FINANCIAL ADMINISTRATION

- 1.1 The Assistant Director, Resources is the Chief Finance Officer in accordance with Article 12 of this Constitution.
- 1.2 The Chief Finance Officer is responsible for the proper administration of the Council's financial affairs for the purposes of Section 151 of the Local Government Act 1972. In the absence of the Chief Finance Officer, the Chief Finance Officer will nominate a deputy.
- 1.3 As the Council's financial and economic adviser, the Chief Finance Officer shall report to the Council with respect to the level of financial resources proposed to be utilised in each financial year and shall keep it informed with respect to the Council's finances and financial performance.
- 1.4 The Joint Chief Executive, the Strategic Director and Assistant Directors (known as the Leadership Team 'LT') shall be responsible for the accountability and control of staff, and the security, custody and control of all other resources including plant, buildings, materials, cash and stores in accordance with the Scheme of Delegations.
- 1.5 The Joint Chief Executive shall be responsible for ensuring that the Strategic Director and Assistant Directors comply with these Financial Regulations and the Leadership Team shall inform the Chief Finance Officer of any matter within their responsibility which is liable materially to affect the finances of the Council before any provisional or other commitment is incurred or before reporting thereon to the Council.
- 1.6 The Financial Regulations will apply to all financial activities carried out by the Council.
- 1.7 Where a member of the Leadership Team proposes:-
 - (i) a new policy, or
 - (ii) a variation of existing policy, or
 - (iii) a substantial variation in the means or time-scale of implementing existing policywhich affects or may affect the Council finances, they shall submit a report to the Council.
- 1.8 In these Regulations the term Council shall include any Committee reporting to the Council duly authorised to exercise such functions and the term LT will mean any individual member of the Leadership Team.

- 1.9 In these regulations, where there is reference to members of the Leadership Team, the responsibility may have been delegated.

2. ACCOUNTING ARRANGEMENTS

- 2.1 The Chief Finance Officer shall:-

- (i) make satisfactory accounting arrangements for all financial transactions of the Council in consultation, where necessary, with the LT;
- (ii) make safe and efficient arrangements for the receipt and payment of the Council's money;
- (iii) review such arrangements periodically.

3. FINANCIAL PLANNING AND CONTROL

Capital Programmes

- 3.1 The Leadership Team shall submit annually to the Council a capital programme for the next five years or longer period if required by the Council.
- 3.2 The Programme shall distinguish between items previously approved and not previously approved by the Council and show the probable additional costs accruing from each scheme. The Programme will indicate the decision making arrangements for each item, including what further approval is required.
- 3.3 The programme shall be submitted to the Council annually, with recommendations as to priorities.
- 3.4 Estimates of capital payments shall be prepared by the LT in consultation with the Chief Finance Officer.
- 3.5 Items in an approved Programme, unless reserved to Council, may be proceeded without the further approval of the Council subject to Paragraph 3.6 below. Otherwise, expenditure must not be incurred until the specific approval of the Council has been obtained, following the submission of a report from Member/s, the LT responsible and the Chief Finance Officer upon the capital costs and subsequent revenue costs of the project. For large projects, whole life costings will need to be included.
- 3.6 Following the approval of capital projects in accordance with Paragraph 3.5 tenders may be invited and accepted, (subject to compliance with Contract Procedure Rules), without further reference to the Council.

- 3.7 The substitution of a new capital project for one already included in an approved capital programme shall only be approved by the Executive following the submission of a report by the LT and the Chief Finance Officer.
- 3.8 Expenditure on capital projects not included in a capital programme shall not be incurred without the specific approval of the Council, following the submission of a report by the LT and the Chief Finance Officer on the costs, funding and subsequent revenue costs.
- 3.9 The Chief Finance Officer shall advise as to, and in appropriate cases shall determine, the method of financing capital expenditure on approved capital projects, subject to statutory and financial constraints.

Annual Revenue Estimates and Budgetary Control

- 3.10 Draft estimates are to be prepared by the LT for submission to Council. Estimates shall be submitted within such limits as may have been previously specified by the Council.
- 3.11 No proposal by an officer to incur any cost, debt or liability or to reduce the amount of any income shall be considered by the Executive unless adequate notice is given to the Chief Finance Officer. The Chief Finance Officer may require the submission of a joint report (including estimated costs) to the Executive based on the information received by him/her.
- 3.12 As soon as practicable after the end of each financial year, the Chief Finance Officer shall submit to the Council the Council's final accounts together with such supporting data as the Chief Finance Officer and the Joint Chief Executive consider necessary and such further information as the Council may require.

Supplementary Estimates

- 3.13 No officer or Committee of the Council shall incur expenditure which cannot be met from the amount provided in the revenue estimates under a head of estimate (including any virement) unless a supplementary estimate has been approved.
- 3.14 Supplementary Estimates may be used where additional financial commitments cannot be met from virements and arise from the following:-
- Unavoidable legal requirements arising from current service plans, including the need to publish statutory notices.
 - External legal costs arising from actions brought by or against the Council or incurred in respect of public enquiries.

- Other inescapable costs or income reductions that could not have been foreseen and arise from current service plans.
- 3.15 Requests for supplementary estimates shall be submitted to the Chief Finance Officer and:-
- The Chief Finance Officer shall have the authority to grant approval for sums up to £15,000.
 - The Chief Finance Officer shall have authority to grant approval, following consultation with the Leader of the Council, for sums up to £50,000.
- 3.16 Any decisions on Supplementary Estimates will be reported to the Executive with the quarterly budget monitoring reports.

Virement

- 3.17 Virement' is the financing of an increase in expenditure or a reduction in income in one head of the approved revenue budget from another head in the revenue budget.
- 3.18 An Assistant Director, in consultation with the Chief Finance Officer, may approve aggregate virements of up to £5,000 within an Assistant Director's budget.
- 3.19 The Chief Finance Officer, may approve aggregate virements of up to £10,000.
- 3.20 Virement outside these limits up to £50,000 is a matter for the Joint Chief Executive and Chief Finance Officer in consultation with the Leader of the Council or, in the Leader's absence, the Deputy Leader. Virements above £50,000 must be referred to the Executive.
- 3.21 No proposal for virement between the revenue estimates for which different members of the Leadership Team are responsible shall take place unless the member/s of the Leadership Team whose estimates will be affected have been consulted and agree or the virement has been approved by the LT in accordance with the limits within this regulation.
- 3.22 The Chief Finance Officer may approve virements between capital projects up to 25% (maximum £50,000) of the capital programme budget. Any decisions on virements will be reported to the Executive with the quarterly budget monitoring reports.
- 3.23 All proposals for virement shall be put in writing.
- 3.24 Written details of any virement authorised by the LT shall be sent to the Chief Finance Officer within 10 working days of their authorisation

- 3.25 Nothing in these rules shall prevent the Executive when dealing with an emergency planning situation from incurring expenditure which is essential to meet any immediate needs created by a sudden emergency or which is referable to S138 of the Local Government Act 1972 or the Civil Contingencies Act 2004, subject to such action being reported to Council as soon as appropriate.

Maintenance of Reserves

- 3.26 It is the responsibility of the Chief Finance Officer to advise the Council on prudent levels of reserves for the Authority, including those earmarked for specific services.

Carrying Forward Revenue Provisions

- 3.27 The Chief Finance Officer may authorise the carrying forward of any unspent budget into the next financial year if satisfied that it has not been possible to incur the estimated expenditure during the year. The Chief Finance Officer shall report the budgets carried forward to the Council as soon as is practicable after the end of each financial year.

4. ORDERS FOR WORKS AND GOODS

- 4.1 Every member of the Leadership Team shall be responsible for all orders issued on their behalf.
- 4.2 Official orders shall be issued for all work, goods or services to be supplied to the Council except for supplies of public utility services, for periodical payments such as subscriptions, rent or rates, for petty cash purchases or such other exceptions as the Chief Finance Officer may approve.
- 4.3 Petty cash reimbursements can be made through payroll and will be paid with the monthly salary or claimed at the Cash Office. Claims from the Cash Office are limited to amounts up to £35.
- 4.4 Approval must be obtained from the Chief Finance Officer for exceptions to paragraphs 4.2 and 4.3.
- 4.5 All orders shall be made using the procurement system prescribed by the Chief Finance Officer in accordance with approved procedures.
- 4.6 Orders shall indicate clearly the nature and quantity of the works, goods or services required and any contract, estimate and authorisation.
- 4.7 All orders shall be authorised in accordance with the Scheme of Delegations, as set out in the Authorised Signatories Lists.

- 4.8 Before authorising an order, the Assistant Director or authorised officer shall be satisfied, by means of competitive quotations or otherwise, that it will obtain the best value for the price to be paid, that the order complies with the Contract Procedure Rules and that there is sufficient budget to cover the costs.

5. PAYMENT OF ACCOUNTS

- 5.1 There are two processes for authorising payments, depending on whether the on-line procurement system was used. In all cases, the following apply:
- 5.2 The Chief Finance Officer shall be responsible for the examination, verification and certification of the related invoices. The Chief Finance Officer shall make such checks, arithmetical and otherwise, as are deemed necessary and shall be given all information and explanations as are required.
- 5.3 The Chief Finance Officer shall be responsible for ensuring that internal controls and procedures are in place for the payment of accounts.
- 5.4 The Chief Finance Officer shall be responsible for ensuring that duplicate payments are not made.
- 5.5 All invoices for payment shall be certified by the Chief Finance Officer or other authorised officer.
- 5.6 Only invoices which the Chief Finance Officer is satisfied are in order shall be paid.
- 5.7 The Chief Finance Officer is responsible for providing advice and instruction on the most economical means of making payment, including by electronic transfer or procurement cards.
- 5.8 Payment of Accounts where on-line procurement system used
- 5.9 Each Assistant Director shall be responsible for ensuring that all discounts have been recorded in the order.
- 5.10 Each Assistant Director shall be responsible for ensuring that the electronic order is updated when goods or services are received in line with the current procedures.
- 5.11 Payment of Other Accounts
- 5.12 Each Assistant Director shall be responsible for the examination, verification and certification of the related invoices.
- 5.13 Each Assistant Director shall be responsible for ensuring that all discounts have been deducted.

- 5.14 Each Assistant Director shall be responsible for showing on each invoice, in a manner approved by the Chief Finance Officer, the relevant order number, the estimate head to be charged and the initials of the persons responsible for checking (a) the prices charged, (b) that goods have been received, and (c) that payment has not previously been authorised.
- 5.15 All invoices for payment shall be certified by an Assistant Director or other officer authorised by the Assistant Director to the extent approved by the Chief Finance Officer in writing. The Chief Finance Officer shall maintain an up to date list of officers authorised to certify invoices for payment.
- 5.16 Each Assistant Director is responsible for ensuring that invoices are sent for payment within the prescribed deadlines.

6. TRAVELLING, SUBSISTENCE AND OTHER ALLOWANCES

- 6.1 Payments to Members, including co-opted Members of the Council or its Committees who are entitled to claim allowances, will be made by the Chief Finance Officer upon receipt of the prescribed form duly completed by the Member.
- 6.2 All claims by employees for payment of car allowances, subsistence allowances, travelling and incidental expenses shall be submitted, duly certified, in a form approved by the Chief Finance Officer.
- 6.3 For employees, the certification by or on behalf of an Assistant Director shall be taken to mean that the certifying Officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.

7. IMPREST ACCOUNTS (PETTY CASH FLOATS/CASH FLOATS)

- 7.1 The Chief Finance Officer shall provide such imprests as she/he considers appropriate for such employees of the Council as may need them for the purposes of defraying petty cash and other expenses.
- 7.2 No income received on behalf of the Council may be paid into an imprest account but must be banked or paid to the Council as provided elsewhere in these Regulations.
- 7.3 Payments shall be limited to minor items of expenditure and to such other items as the Chief Finance Officer may approve and shall be supported by a receipted voucher to the extent that the Chief Finance Officer may require.

- 7.4 An employee responsible for an imprest account or cash float shall, if so requested, give to the Chief Finance Officer a certificate as to the state of the account or float.
- 7.5 The Chief Finance Officer shall be responsible for checking from time to time that there are arrangements for cash floats to be properly and securely maintained.
- 7.6 Before leaving the employment of the Council or otherwise on ceasing to hold an imprest or float, an employee shall account to the Chief Finance Officer for the amount advanced and the Assistant Director shall ensure that this happens.

8. CONTRACTS AND PAYMENTS

- 8.1 Assistant Directors shall inform the Chief Finance Officer as soon as possible of all contracts, agreements, awards, or other instruments involving the payment or receipt of money by the Council.
- 8.2 Where contracts provide for payment to be made by instalments, the Chief Finance Officer shall arrange for the keeping of a contract register to show the state of account on each contract between the Council and the contractor, together with any other payments and any relating professional fees.
- 8.3 Payments to contractors on account of contracts shall be made only on a certificate issued by the Assistant Directors supervising the contract.
- 8.4 Subject to the provisions of the contract in each case, every extra or variation shall be authorised in writing by the appropriate Assistant Director.
- 8.5 Any variation or other increase in cost in excess of £10,000 shall be reported to the Chief Finance Officer and Joint Chief Executive as soon as practicable.
- 8.6 The Assistant Director, in consultation with the Chief Finance Officer and Joint Chief Executive, shall report to the Executive as soon as possible on any capital project over £10,000 which is likely to exceed the approved cost by more than 25% or £40,000, whichever is less.
- 8.7 Where the contract includes a retention, the final payment for the contract shall not be made until the Assistant Director has produced to the Chief Finance Officer a detailed statement of account and all relevant documents required and the Chief Finance Officer has approved the amount to be certified.
- 8.8 The Chief Finance Officer shall be entitled to make all such enquiries and receive such information and explanations required in order to be satisfied as to the accuracy of the final accounts to contracts.

- 8.9 Claims from contractors in respect of matters not clearly within the terms of any existing contract shall be referred to the Assistant Director, Legal & Democratic for consideration of the Council's legal liability and the action to be taken decided by the Leadership Team.
- 8.10 Where completion of a contract is delayed and the contract provides for liquidated damages to be payable for delayed completion, it shall be the duty of the Assistant Director concerned, after consulting with the Assistant Director, Legal & Democratic and the Chief Finance Officer, to claim the liquidated damages unless it is otherwise agreed by the Assistant Director, Legal & Democratic and the Chief Finance Officer.

9. SALARIES AND WAGES

- 9.1 The payment of all salaries, wages, compensation and other emoluments to all employees or former employees of the Council shall be made by the Chief Finance Officer or under arrangements approved and controlled by him/her.
- 9.2 The relevant Assistant Director shall notify the Chief Finance Officer and in the prescribed form of all matters affecting such payments, and in particular:-
- (a) appointments, resignations, dismissals, suspensions, secondments, and transfers;
 - (b) absences from duty for sickness or other reasons, apart from normal annual leave;
 - (c) changes in remuneration, other than normal increments and pay awards and agreements of general application;
 - (d) information necessary to maintain records of service for superannuation, income tax, national insurance and the like.
- 9.3 All time records or other pay documents shall be in a form approved by the Chief Finance Officer and shall be certified by the Assistant Director or authorised Officer. The names of Officers authorised to sign such records shall be sent to the Chief Finance Officer together with specimen signatures by the Assistant Directors who shall advise the Chief Finance Officer of any changes.
- 9.4 If payments are to be made for additional duties, e.g. home deliveries, the work must have been completed before payment can be made. All instructions to make such a payment shall be in a form approved by the Chief Finance Officer and shall be certified by the Assistant Director or authorised officer.

10. INCOME

- 10.1 The collection of all money due to the Council shall be under the supervision of the Chief Finance Officer.
- 10.2 Each Assistant Director shall furnish the Chief Finance Officer with such particulars in connection with work done, goods supplied or services rendered and all other amounts due as may be required by the Chief Finance Officer to record correctly all such income due to the Council and to ensure the prompt rendering of accounts.
- 10.3 Where a credit note is to be issued in order to cancel or reduce an invoice raised by the Council, the Credit Note must be approved by the Assistant Director or other officer authorised by the Assistant Director to the extent approved by the Chief Finance Officer in writing.
- 10.4 Assistant Directors shall notify the Chief Finance Officer promptly of all income due to the Council and of contracts, leases and other agreements and arrangements entered into by the Council and the Chief Finance Officer shall have the right to inspect all documents or other evidence in this connection in the possession of any employee.
- 10.5 The arrangements for the control of all receipt forms, tickets and other such documents which acknowledge sums received shall be approved by the Chief Finance Officer.
- 10.6 All money received by an employee on behalf of the Council shall without delay be paid to the Chief Finance Officer or, as directed, to the Council's bank account. No deduction may be made from such money save to the extent that the Chief Finance Officer has specifically authorised in writing. Each employee who so banks money shall enter on the paying-in slip a reference to the cheque (such as the receipt number or the name of the debtor) or otherwise indicate the origin of the cheque). On the reverse of each cheque, the employee shall enter such information to identify the transaction as instructed by the Chief Finance Officer.
- 10.7 Cheques for sums exceeding £2,000 shall be paid in at the main Cash Office at the latest on the next working day.
- 10.8 Collecting Officers should immediately pay in all cheques (irrespective of their value) to the main Cash Office, particularly if they have any doubt as to the credibility or credit worthiness of the customer or client making the payment.
- 10.9 The Chief Finance Officer shall ensure that all monies received are collected by the next Security collection, for payment into the Council's bank account.

- 10.10 Personally drawn cheques (and third party cheques) shall not be cashed out of the money held on behalf of the Council.
- 10.11 Every transfer of the Council's cash from one member of staff to another shall be recorded by the signature of the receiving employee to confirm the fact of the transfer and the amount transferred.

Writing off Outstanding Monies

- 10.12 The Chief Finance Officer is authorised to write off amounts due or claimed by the Council up to £5,000 and, after consultation with the Leader of the Council, between £5,000 and £15,000. Amounts over £15,000 must be reported to the Executive.
- 10.13 All proposals to write off monies shall be made in writing with reasons.

11. STOCKS AND STORES

- 11.1 Assistant Directors shall be responsible for the care and custody of the stocks and stores in their respective service divisions or units.
- 11.2 Stocks shall not be in excess of normal requirements except in special circumstances with the approval of the Chief Finance Officer.
- 11.3 Assistant Directors shall arrange for periodical test examinations of stocks by persons other than storekeepers and shall ensure that all stocks are checked in accordance with the programme approved by the Chief Finance Officer.
- 11.4 The Leadership Team shall give the Chief Finance Officer such information as is required in relation to stores for the accounting, costing and financial records. Surplus materials, stores or equipment shall be disposed of by competitive tender or public auction except with the approval of the Chief Finance Officer in the case of items not exceeding £1,000 in value or that of the Joint Chief Executive in any other case.

12. INVENTORIES

- 12.1 Inventories shall be maintained by the Leadership Team and therein shall be recorded a sufficient description of furniture, fittings and equipment, plant and machinery, for which they are responsible. The extent to which the property of the Council shall be so recorded and the form in which the inventories shall be kept is to be determined by the Chief Finance Officer.
- 12.2 The Leadership Team shall be responsible for maintaining an annual check of all items on the inventory, for taking action in relation to surpluses or deficiencies and noting the inventory accordingly.

- 12.3 The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the Leadership Team

13. ESTATES

- 13.1 The Assistant Director, Assets & Commercial will maintain a record of all properties owned by the Council

14. SECURITY

- 14.1 Each Assistant Director is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc under his/her control. The Chief Finance Officer shall be consulted in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 14.2 Maximum limits for cash holdings shall be agreed with the Chief Finance Officer.
- 14.3 Keys to safes and similar receptacles are to be carried on the person of those responsible at all times. The loss of any such keys must be reported to the Chief Finance Officer and relevant Assistant Director immediately.
- 14.4 Each Assistant Director in conjunction with the Assistant Director, Legal & Democratic shall within their department be responsible for maintaining proper security and privacy in respect of information held in any computer system or physical filing system.

15. INSURANCES

- 15.1 The Chief Finance Officer shall be responsible for the maintenance of insurance cover wherever appropriate for the Council's activities, the negotiation of premiums and the keeping of such records as are necessary.
- 15.2 Each Assistant Director shall tell the Chief Finance Officer of the extent and nature of all new risks to be insured, and of any alterations affecting insurable risks including partnership or contractual arrangements and the Chief Finance Officer shall notify the Assistant Director immediately the insurance has been affected.
- 15.3 Each Assistant Director shall immediately notify the Chief Finance Officer and the Assistant Director, Legal & Democratic in writing of any loss, liability or damage.

- 15.4 The Assistant Director, Legal & Democratic shall negotiate all claims in which legal issues are involved unless the Council's insurers are acting.

16. AUDIT

- 16.1 A continuous internal audit shall be arranged to carry out an examination of accounting, financial and other operations of the Council. The internal audit shall be under the control of the Chief Finance Officer who shall ensure it meets the requirements of Section 151 of the Local Government Act 1972.
- 16.2 The Joint Chief Executive, Monitoring Officer and Chief Finance Officer or their authorised representative shall have authority to:-
- (a) enter at all reasonable times on any Council premises or land;
 - (b) have access to all records, documents and correspondence relating to any financial and other transactions of the Council;
 - (c) require and receive such explanations as are necessary concerning any matter under examination and
 - (d) require any employees of the Council to produce cash, stores or any other Council property under their control.
- 16.3 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Council or any suspected irregularity in the exercise of the functions of the Authority, the Leadership Team shall forthwith notify the Joint Chief Executive, the Chief Finance Officer and the Assistant Director, Legal & Democratic, who shall take such steps as are considered necessary by way of investigation, action and report.
- 16.4 The Chief Finance Officer shall report direct to the Council, the Executive or Audit Committee on any matter which the Chief Finance Officer considers necessary.
- 16.5 The Assistant Director, Legal & Democratic may report independently to the Executive, the Audit Committee or Council if the Assistant Director, Legal & Democratic should consider this necessary.

17. BANKING ARRANGEMENTS AND CHEQUES

- 17.1 All arrangements with the Council's bankers concerning the Council's banking accounts and the issue of cheques shall be made by the Chief Finance Officer.

- 17.2 All new cheques shall be ordered only on the authority of the Chief Finance Officer, who shall make proper arrangements for their safe custody.
- 17.3 Cheques drawn on the Council's bank accounts shall bear the facsimile signature of the Chief Finance Officer or shall be signed by the Chief Finance Officer or any other cheque signatory authorised by the Council.
- 17.4 The Chief Finance Officer shall be responsible for the negotiation of banking terms on behalf of the Council.

18. TREASURY MANAGEMENT

- 18.1 The Chartered Institute of Public Finance and Accountancy's (CIPFA) Treasury Management in the Public Services Code of Practice ('the Code') has been adopted and is deemed to be incorporated in these Financial Regulations.

The Council will create and maintain as the cornerstones for effective treasury management:-

- A treasury management policy statement (TMPS), stating the policies, objectives and approach to risk management of its treasury management activities
 - Suitable treasury management practices (TMPS) setting out the manner in which the organisation will seek to achieve those policies and objectives and prescribing how it will manage and control those activities.
- 18.2 The content of the policy statement and TMPS will follow the recommendations contained in sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the Code's key principles.
- 18.3 The Council will receive reports on its treasury management policies, practices and activities including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close in the form prescribed in its TMPS.
- 18.4 The Council delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to the Executive and for the execution and administration of treasury management decisions to the Chief Finance Officer who will act in accordance with the organisation's policy statement and TMPS and, as a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.

- 18.5 The Council nominates the Audit Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.
- 18.6 The following **Treasury Policy Statement** is adopted:-
- (a) The Council defines its treasury management activities as: “The management of the Authority’s investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.
 - (b) The Council regards the successful identification, monitoring and control of risk to be the prime criteria by which the effectiveness of its treasury management activities will be measured. Accordingly the analysis and reporting of treasury management activities will focus on their risk implications for the Authority.
 - (c) This Council acknowledges that effective treasury management will provide support towards the achievement of its business and service objectives. It is therefore committed to the principles of achieving best value in treasury management, and to employing suitable performance measurement techniques within the context of effective risk management.

19. TRUSTS

- 19.1 All Trust fund accounts shall wherever possible be in the name of the Council.
- 19.2 All employees acting as trustees by virtue of their official position shall deposit all securities, etc relating to the trust with the Assistant Director, Legal & Democratic unless the trust instrument otherwise requires.

20. PARTNERSHIPS

- 20.1 The Council has a comprehensive Partnership Guidance for new and existing partnerships which covers a range of issues that need to be considered, such as the governance arrangements, risk and performance management and assessment of the value of the partnership.
- 20.2 The Leadership Team is responsible for ensuring that the Council's Partnership Guidance is adhered to for any new or existing partnerships and that any potential financial commitments arising from partnerships are identified and notified to the Chief Finance Officer before any agreements are signed.

21. EXTERNAL FUNDING

21.1 When applying for external funding, the Leadership Team is responsible for ensuring that:

- The key conditions of funding and the responsibilities of the Council are clearly understood
- That funds are acquired only to meet the priorities of the Council
- Any match-funding or ongoing revenue costs are given due consideration prior to entering into long term agreements.
- The Chief Finance Officer is notified of any applications for external funding, the outcome of any applications and the amounts and dates that funds will be received.
- All claims for funds are made by the due date
- Any externally funded projects are progressed in accordance with agreed project timetable.

21.2 The Chief Finance Officer will record all external funding as notified.

22. WORK FOR THIRD PARTIES

22.1 When providing services to other bodies, the Leadership Team is responsible for ensuring that:-

- Proposals are properly costed with assistance from the Chief Finance Officer and the service is not subsidised by the Council.
- The service is covered by a contract which is agreed with the Assistant Director, Legal & Democratic.
- Insurance arrangements have been considered with the Chief Finance Officer
- The department has the appropriate expertise and capacity to deliver the service and that such contracts do not impact adversely upon existing service delivery.
- The Chief Finance Officer is provided with appropriate information for the Statement of Accounts and to set up invoicing arrangements.
- The Council is not put at risk from any bad debts.
- All contracts are properly documented.

Contract Procedure Rules

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All costs stated in these Contract Procedure Rules are exclusive of VAT, staff costs and fees.

DEFINITIONS

Agent	a person or organisation instructed to act on behalf of the Council or on behalf of another organisation. This shall also be taken to include consultants.
Approved List	A list drawn up in accordance with Rule 7.2.
Award Criteria	The criteria by which the successful Quotation or Tender is to be selected (see further Rules 10 and 11.2e).
Award Procedure	The procedure for awarding a Contract as specified in Rules 8, 10 and 15.
Best Value	The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council. This terminology has now in many instances been superseded by Value for Money.
Bond	An insurance policy: if the Contractor does not do what it has promised under a Contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the Contract value). A bond is intended to protect the Council against a level of cost arising from the Contractor's failure.
Bidder	Any person who asks or is invited to submit a Quotation or Tender.
Chief Finance Officer	The officer Designated Chief Finance Officer (Section 151 Officer) by the Council.
Code of Conduct	The code regulating conduct of officers.
Committee	A Committee which has power to make decisions for the Council, for example a joint Committee with another local authority, but not the scrutiny Committee.
Contract	Means a Relevant Contract under these Contract Procedure Rules. Contract and Relevant Contract may be used interchangeably.
Contracting Decision	Any of the following decisions: <ul style="list-style-type: none"> • composition of Approved Lists; • withdrawal of Invitation to Tender; • whom to invite to submit a Quotation or Tender;

- Shortlisting;
- award of Contract;

any decision to terminate a Contract.

Corporate Contract	A Contract let by the Council to support the Council's aim of achieving Value for Money.
Council	means Rochford District Council
Essex Procurement Hub	The Council's central procurement partner charged with providing strategic direction and advice to secure Value for Money in the Council's procurement activities. The hub also has EU regulations legal expertise.
EU Procedure	The procedure required by the EU where the Total Value exceeds the EU Threshold.
EU Threshold	The Contract value at which the EU public procurement directives apply.
Evaluation	The process of selecting Bidders who are to be invited to quote or bid or proceed to final evaluation
Financial Regulations and procedures	The financial regulations and procedures outlining officer responsibilities for financial matters issued by the Chief Finance Officer in accordance with the Constitution.
Framework Agreement	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing Contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
Joint Head of Paid Service	The Council's Joint Chief Executive.
High Profile	A high-profile purchase is one that could have an impact on functions integral to Council service delivery should it fail or go wrong.
High Risk	A high-risk purchase is one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.
High Value	A high-value purchase is where the value exceeds the EU Threshold values.
Invitation to Tender	Invitation to tender documents in the form required by these Contract Procedure Rules.

Key Decision	Decisions that are defined as key decisions in the Constitution.
Members	Persons currently elected to serve on the Council
Monitoring Officer	The officer defined as such in the Constitution
Nominated Suppliers and Sub-Contractors	Those persons specified in a main Contract for the discharge of any part of that Contract.
Non-commercial Considerations	<ul style="list-style-type: none">a) The terms and conditions of employment by Contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters').b) Whether the terms on which Contractors Contract with their sub-Contractors constitute, in the case of Contracts with individuals, Contracts for the provision by them as self-employed persons of their services only.c) Any involvement of the business activities or interests of Contractors with irrelevant fields of government policy.d) The conduct of Contractors or workers in industrial disputes between them or any involvement of the business activities of Contractors in industrial disputes between other persons ('industrial disputes').e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, Contractors.f) Any political, industrial or sectarian affiliations or interests of Contractors or their directors, partners or employees.g) Financial support or lack of financial support by Contractors for any institution to or from which the Council gives or withholds support. <p>Use or non-use by Contractors of technical or professional services provided by the Council under the Building Act 1984 or the Building (Scotland) Act 1959. Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be Non-Commercial considerations to the extent necessary or expedient to</p>

	comply with Best Value; or where there is a transfer of staff to which the Transfer of undertakings. (Protection of Employment) Regulations 1981 (TUPE) may apply.
Officer	Means an officer of the Council authorised to enter into a Relevant Contract to which these Contract Procedure Rules apply.
Parent Company Guarantee	<p>A Contract which binds the parent of a subsidiary company as follows:</p> <p>if the subsidiary company fails to do what it has promised under a Contract with the Council, the Council can require the parent company to do so instead.</p>
Procurement Officer	An officer of the Council within the procurement team.
Procurement Strategy	The document setting out the Council's approach to procurement and key priorities as issued from time to time.
Purchasing Guidance	The guidance documents, together with a number of standard documents and forms, which supports the implementation of these Contract Procedure Rules. The guidance is available on the Council's intranet.
Quotation	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Relevant Contract	Contracts to which these Contract Procedure Rules apply including sales, grants, purchasing, procurement, Relevant Contracts, service level agreements, and Contracts with external parties, including other local authorities or public bodies. This is more fully defined under rule 4.
Standing Orders	Part of the Council's Constitution specifying rules for how business shall be conducted.
Tender	A Bidder's proposal submitted in response to an Invitation to Tender.
Tender Record Log	The log kept by the Director of Commercial Services to record details of Tenders (see Rule 13).
Total Value	The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows:

- (a) where the Contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period.
- (b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months.
- (c) where the Contract is for an uncertain duration, by multiplying the monthly payment by 48.
- (d) for feasibility studies, the value of the scheme or Contracts which may be awarded as a result.

for Nominated Suppliers and Sub-Contractors, the total value shall be the value of that part of the main Contract to be fulfilled by the Nominated Supplier or Sub-Contractor.

TUPE

(Transfer of Undertakings (Protection of Employment) Regulations 2006)

(SI 2006 No.246)

Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the Council is transferred from one organisation (e.g. private Contractor, local authority in-house team) to another (e.g. following a Contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.

Value for Money

Value for money is not the lowest possible price; it combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.

INTRODUCTION

These Contract Procedure Rules (issued in accordance with section 135 of the 1972 Local Government Act) are intended to promote good purchasing practice and public accountability, deter corruption, ensure that the Council achieves Best Value in the way it spends money and act as guidance to officers and Members.

It is a disciplinary offence to fail to comply with Contract Procedure Rules when undertaking Procurement on behalf of the Council. Council employees and third party service providers have a duty to report breaches of Contract Procedure Rules to an appropriate senior manager and the Monitoring Officer.

These rules apply to all Relevant Contracts.

These rules apply to officers and Members.

These rules do not apply to the acquisition or disposal of land or any interest in land (although services relating to land could come within the scope of these rules) or for the engagement of barristers. The scope of the rules is definitively set out under rule 4.

Where the Council is entering into a contract as an agent and/or in collaboration with another public body or organisation, these Contract Procedure Rules apply only in so far as they are consistent with the requirements of the body concerned. Where the Council is acting as principal the Contract Procedure Rules will take precedence.

For the purposes of these rules, where there is a requirement for communication to be in writing, this shall be deemed (unless stated otherwise) to include e-mail and fax transmissions as well as hard copy.

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

1. BASIC PRINCIPLES

All procedures must:-

- support the Council's corporate aims, policies, and strategic direction
- consider all necessary procurement, legal, financial and professional advice.
- ensure value for money and propriety in the spending of public money; be consistent with the highest standards of integrity
- comply with all legal requirements and these rules
- ensure that the Council is not exposed to unnecessary risk and likelihood of challenge arising from non-compliant procurement activity
- consider and incorporate necessary health and safety, inclusion and diversity, and safeguarding children and vulnerable adults requirements.
- not be influenced by Non-Commercial considerations other than those permitted by law.
- comply with the Council's corporate Procurement Strategy.

2. OFFICER RESPONSIBILITIES

2.1 Officers

- 2.1.1 Officers engaging in Relevant Contracts must comply with the Council's Contract Procedure Rules, the Finance Procedure Rules, Officer's Code of Conduct and with all UK and European Union binding legal requirements. Officers must ensure that any Agents and Contractual partners acting on their behalf also comply.

All officers should undertake Procurement in a manner which avoids any potential conflicts of interest.

2.1.2 Officers must:-

- ensure to obtain all appropriate authorisations, check that sufficient resources are available, and that appropriate budget provisions exist.
- have regard to the guidance in the Purchasing Guidance
- check whether a suitable Corporate Contract exists before seeking to let another Contract; where a suitable Corporate

- Contract exists, this must be used unless there is an auditable reason not to keep the records required by Rule 6.
- take all necessary legal, financial and professional advice.
- comply with the Council's policies on anti-bribery, corruption and whistleblowing as published from time to time.

2.1.3 When any employee either of the Council or of a service provider may be affected by any transfer arrangement, officers must ensure that TUPE issues are considered and obtain legal advice before proceeding with inviting Tenders or Quotations.

2.2 **Assistant Directors**

2.2.1 Assistant Directors must:-

- ensure that their staff comply with Rule 2.1 to keep registers of Contracts completed by signature (rather than by the Council's seal) (see Rule 16.3) which may be inspected; and will support the annual budget review.
- arrange for original Contracts where the Contract value exceeds £25,000 or are completed by the Council's seal to be passed to the Assistant Director, Legal & Democratic or the Council's procurement team, as appropriate, for safekeeping. All other original Contracts are to be kept safe by the appropriate Assistant Director subject to Data Protection requirements.
- ensure exemptions are recorded under Rule 3.5.

3. **EXEMPTIONS, COLLABORATIVE AND E-PROCUREMENT ARRANGEMENTS**

3.1 An exemption under this rule allows for the procedure under Rule 8 to be dispensed with and can be replaced with direct negotiation with one or more suppliers.

3.2 Before seeking an exemption the officer must take any necessary procurement, legal, financial and professional advice prior to submitting the exemption for authorisation to the Joint Head of Paid Service with the agreement of the Chief Finance Officer.

3.3 The Council has the power to dispense with any provision within these Contract Procedure Rules. No exemption can be used if the Contract value exceeds £25,000.

3.4 Exemptions from the procedure under Rule 8 may be approved by the Joint Head of Paid Service, in consultation with the Council's Section 151 Officer where:-

- (a) it is necessary to forgo the Rule 8 procedure due to an unforeseeable emergency involving immediate risk to persons, property or serious disruption to Council services. Any such exemption must only be for the minimum required to make the emergency situation safe or to ensure continued Council operations until a compliant procedure can be carried out.
 - (b) the work to be carried out or goods to be supplied comprise repairs, or parts for existing plant equipment, or vehicles, or updating computer software, or are required to be compatible with existing plant, equipment, vehicles or software.
 - (c) the Contract is to extend an existing Contract and is the most economical means of obtaining what is required by the Council.
 - (d) a consultant is proposed to be re-engaged to carry out further work on a project which they have worked on before and engaging new consultants would be inappropriate, or lead to extra costs.
- 3.5 All exemptions, and the reasons for them, must be recorded. Exemptions shall be signed by the relevant Assistant Director and shall be reported to the Leader of the Council as soon as practicable. Records of all recorded decisions shall be held by the Council's 151 Officer and the Council's procurement team.
- 3.6 In order to secure Value for Money, the Council may enter into collaborative procurement arrangements. The officer must consult the relevant Assistant Director and take any necessary procurement, legal, financial and professional advice where the purchase is to be made using collaborative procurement arrangements with another local Council, government department, statutory undertaker or public service purchasing consortium.
- 3.7.1 All purchases made via a local Council purchasing consortium are deemed to comply with these Contract Procedure Rules and no exemption is required. However, purchases above the EU Threshold must be let under the EU Procedure, unless the consortium has satisfied this requirement already by letting their Contract in accordance with the EU Procedures on behalf of the Council and other consortium members.
- 3.7.2 Any Contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the Contract Procedure Rules of the leading organisation, will be deemed to comply with these Contract Procedure Rules and no exemption is required. However, any relevant procurement, legal, financial and professional advice must be sought.
- 3.8 The use of e-procurement technology does not negate the requirement to comply with all elements of these Contract procurement rules,

particularly those relating to competition and Value for Money.

4. RELEVANT CONTRACTS

4.1 All Relevant Contracts must comply with these Contract Procedure Rules. A Relevant Contract is any arrangement made by, or on behalf of, the Council for the carrying out of works or for the supply of goods, materials or services. These include arrangements for:-

- (a) The supply or disposal of goods;
- (b) The hire, rental or lease of goods or equipment;
- (c) The delivery of services, including (but not limited to) those related to:-
 - The recruitment of agency staff i.e. those members of staff without a direct employment Contract with the Council
 - Land and property transactions
 - Financial and consultancy services

4.2 Relevant Contracts do not include:

- (a) Contracts of employment which make an individual a direct employee of the Council
- (b) Agreements regarding the acquisition, disposal, or transfer of land
- (c) The engagement of barristers
- (d) The recruitment of non-agency Council staff i.e. those with a direct employment Contract with the Council

4.3 CONTRACT VALUE CALCULATION

Contract value means the estimated aggregate or recurring value payable in pounds sterling exclusive of Value Added Tax over the entire contract period including any extensions of the contract.

Where the contract term is without fixed length the estimated value of the contract should be calculated by monthly value of spend multiplied by 48 in accordance with Regulation 8 of the EU Regulations.

Contracts must not be artificially underestimated or disaggregated into two or more separate contracts where the effect is to avoid the application of Contract Procedure Rules or English law. Please refer to the Code of Practice for further information.

Where a Framework Agreement is planned the contract value must be calculated to include the total value of all the individual contract arrangements envisaged under the Framework Agreement.

4.4 EXTENSIONS AND VARIATIONS

Contracts may only be extended or varied if all of the following conditions have been met

- the extension or variation is in accordance with the terms and conditions of the existing contract;
- the contract has not been extended before the extension or variation has an approved budget allocation;

For advice regarding acceptance thresholds for contract extensions and variations please contact the Procurement Team.

SECTION 2: COMMON REQUIREMENTS

5. STEPS PRIOR TO PURCHASE

5.1 The officer must appraise the purchase, in a manner proportionate with its complexity and value and taking into account any relevant guidance and advice, by:-

- Taking into account the requirements from any relevant Best Value review appraising the need for the expenditure and its priority defining the objectives of the purchase.
- Assessing the risks associated with the purchase and how to manage them considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local Council, government department, statutory undertaker or public service purchasing consortium.
- Consulting users as appropriate about the proposed procurement method, Contract standards and performance and user satisfaction monitoring.
- Drafting the terms and conditions that are to apply to the proposed Contract setting out these matters in writing if the Total Value of the purchase exceeds £50,000

5.2 **And by confirming that:-**

- There is Council or delegated approval for the expenditure and the purchase accords with the approved policy framework and scheme of delegation as set out in the Constitution

6. RECORDS (ACQUISITIONS AND DISPOSALS)

6.1 Where the Total Value is greater than £500 but less than £50,000, the following records must be kept:-

- Invitations to quote and Quotations;
- A record:-
 - of any exemptions and the reasons for them (if Total Value is less than £25,000);
 - of the reason if the lowest price is not accepted (if Total Value is less than £25,000).
- Written records of communications with the successful Contractor or an electronic record if a written record of the transaction would normally not be produced.

6.2 **Where the Total Value exceeds £50,000 the officer must record:-**

- The method for obtaining bids (see Rule 8.1);
- Any Contracting Decision and the reasons for it;
- The Award Criteria in descending order of importance;
- Tender documents sent to and received from Bidders;
- Any pre-tender market research;
- Clarification and post-tender negotiation (to include minutes of meetings);
- The Contract documents;
- Post-Contract evaluation and monitoring;
- Communications with Bidders and with the successful Contractor throughout the period of the Contract.

6.3 Records required by this rule must be kept for six years after the end of the Contract. However, written documents which relate to unsuccessful Bidders may be electronically scanned or stored by some other suitable method after 12 months from award of Contract, provided there is no dispute about the award.

7. ADVERTISING AND APPROVED LISTS

7.1 Officers are responsible for ensuring that all Bidders for a Relevant Contract are suitably assessed. The assessment process shall establish that the potential Bidders have sound:-

- Economic and financial standing;
- Technical ability and capacity to fulfil the requirements of the Council.

7.2 This may be achieved by selecting organisations from

- a. Framework agreements maintained on behalf of Essex Procurement Hub, Central Government or any other public body
 - b. A shortlist of Contractors assessed from expressions of interest in a particular Contract submitted in response to a public advertisement (for any Contract below £25,000).
 - c. Advertised on Contracts Finder (for any Contract over £25,000)
- 7.3 Where the value of the proposed Contract is less than £25,000 appropriate enquires will be made, based on the degree of risk to which the Council will be exposed.

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

8. COMPETITION REQUIREMENTS FOR PURCHASE, DISPOSAL AND PARTNERSHIP ARRANGEMENTS

The officer must calculate the Total Value.

The following procedures apply where there are no other procedures which take precedence. Other procedures may include agency agreements with government. If in doubt, officers must seek the advice from the Council's procurement or legal services departments.

8.1 Purchasing – Competition Requirements

- 8.1.1 Where the Total Value for a purchase is within the values in the first column below, the Award Procedure in the second column must be followed. Evaluation shall be done by the persons specified in the third column.

Total Value	Award Procedure	Evaluation Panel
Up to £10,000	Quotations in writing should be obtained for purchases and it is recommended that more than one written quotation is obtained if reasonably practicable. However, if the value of the purchase is estimated as not likely to exceed £500, then at least one oral quotation will suffice. Officers must be able to demonstrate both Best Value and probity in the process. Existing Contractual arrangements must be used if they are in place.	Officer

£10,001 £24,999	to	The Receipt of three written Quotations (this requirement may be waived with the written consent of the relevant Assistant Director in consultation with the Chief Finance Officer).	Officer
£25,000 to £50,000		Quotations sought by advertisement on Contracts Finder	Officer and Procurement Co-Ordinator / Procurement Consultant
£50,001 to EU Threshold		Invitation to Tender by advertisement on Contracts Finder	Officer, Procurement Co-Ordinator / Procurement Consultant and Assistant Director/Director
Above EU Threshold		EU Procedure or, where this does not apply, Invitation to Tender by advertisement on Contracts Finder	Consult the Essex Procurement Hub – see Rule 8.1.4

8.1.2 Where it can be demonstrated that there are sufficient suitably qualified Bidders to meet the competition requirement, all suitably qualified Bidders must be invited.

8.1.3 An officer must not enter into separate Contracts nor select a method of calculating the Total Value in order to minimise the application of these Contract Procedure Rules.

8.1.4 Where the EU Procedure is required, the officer shall consult the Essex Procurement Hub to determine the method of conducting the purchase.

8.2 **Assets for Disposal**

8.2.1 Assets for disposal must be sent to public auction except where better Value for Money is likely to be obtained by inviting Quotations and Tenders. These may be invited by advertising on the Council's internet site. In the latter event, the method of disposal of surplus or obsolete stocks/stores or assets must be formally agreed with the relevant member of the Leadership Team.

8.3 **Providing Services to External Purchasers**

8.3.1 The relevant member of the Leadership Team, as well as the relevant Financial Regulations, procedures and legislation, must be consulted

where Contracts to work for organisations other than the Council are contemplated.

8.4 Collaborative and Partnership Arrangements

8.4.1 Collaborative and partnership arrangements are subject to all UK and EU procurement legislation and must follow these Contract Procedure Rules.

8.4.2 If in doubt, Officers must seek advice of the Essex Procurement Hub.

9. PRE-TENDER MARKET RESEARCH AND CONSULTATION

9.1 The officer responsible for the purchase:-

- May consult potential suppliers prior to the issue of the Invitation to Tender in general terms about the nature, level and standard of the supply, Contract packaging and other relevant matters, provided this does not prejudice any other potential Bidder. Prior to any such consultation, officers should seek advice from the Assistant Director, Legal & Democratic and/or the Essex Procurement Hub.
- May seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them, unless this may prejudice the equal treatment of all potential Bidders or distort competition, and should seek advice from the Assistant Director, Legal & Democratic, and/or the Essex Procurement Hub.

10. STANDARDS AND AWARD CRITERIA

10.1 The officer must ascertain what are the relevant British, European or international standards which apply to the subject matter of the Contract. The officer must include those standards which are necessary properly to describe the required quality. The Director must be consulted if it is proposed to use standards other than European standards.

10.2 The officer must define Award Criteria that are appropriate to the purchase and designed to secure an outcome giving Value for Money for the Council. The basic criteria shall be:-

- 'Lowest price' where payment is to be made by the Council (this will only be applicable to Contracts under £25,000);
- 'Highest price' if payment is to be received; or
- 'Most economically advantageous', where considerations other than price also apply (applicable to all Contracts over £25,000).

If the last criterion is adopted, it must be further defined by reference to sub-criteria which may refer only to relevant considerations.

These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any other relevant matters.

10.3 Award Criteria must not include:-

- Non-commercial Considerations (except where such consideration will be integral to the Contract)
- Matters which discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement.

11. INVITATIONS TO TENDER / QUOTATIONS

11.1 The Invitation to Tender or Quotation shall state that no Tender or Quotation will be considered unless it is received by the date and time stipulated in the Invitation to Tender. No Tender or Quotation delivered in contravention of this clause shall be considered except in exceptional extenuating circumstances and with adequate notification to the Council's procurement team.

11.2 All Invitations to Tender shall include the following:-

- (a) A specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers.
- (b) A requirement for tenderers to declare that the Tender content, price or any other figure or particulars concerning the Tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose).
- (c) A requirement for tenderers to complete fully and sign all Tender documents including a form of Tender and certificates relating to canvassing and non-collusion.
- (d) Notification that Tenders are submitted to the Council on the basis that they are compiled at the tenderer's expense.
- (e) A description of the Award Procedure and, unless defined in a prior advertisement, a definition of the Award Criteria in objective terms and if possible in descending order of importance.

- (f) A stipulation that any Tenders submitted by fax or other electronic means shall not be considered with the exception of the Council's electronic tender portal.
- 11.3 All Invitations to Tender or Quotations must specify the goods, service or works that are required, together with the terms and conditions of Contract that will apply (see Rule 16).
- 11.4 The Invitation to Tender or Quotation must state that the Council is not bound to accept any Quotation or Tender.
- 11.5 All Bidders invited to Tender or Quotation must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.

12. SHORTLISTING

- 12.1 Where Approved Lists are used, Evaluation may be carried out by the officer in accordance with the Evaluation criteria drawn up when the Approved List was compiled (see Rule 7.2.2). However, where the EU Procedure applies, Approved Lists may not be used.

13. SUBMISSION, RECEIPT AND OPENING OF TENDERS/QUOTATIONS

- 13.1 Bidders must be given an adequate period in which to prepare and submit a proper Quotation or Tender, consistent with the urgency and complexity of the Contract requirement. All Tender documents will be published on Contracts Finder for a minimum of 35 days. The EU Procedure lays down specific time periods (see guidance published on the Procurement section of the Intranet).
- 13.2 All Tenders must be returned to the Council's Procurement Team where they will be stored securely.
- 13.3 Tenders received by fax or other electronic means (e.g. email) must be rejected, unless they have been sought in accordance with an electronic tendering system approved by the Assistant Director, Legal & Democratic.
- 13.4 The officer must not disclose the names of Bidders to any staff involved in the receipt, custody or opening of Tenders.
- 13.5 The Assistant Director, Legal & Democratic or the Council's procurement team (as applicable) shall be responsible for the safekeeping of Tenders until the appointed time of opening. Each Tender must be: Suitably recorded so as to subsequently verify the date and precise time it was received; adequately protected immediately on receipt to guard against amendment of its contents; and recorded immediately on receipt in the Tender Record Log.

13.6 Submission and receipt of Paper Tenders

The Assistant Director, Legal & Democratic or the Council's procurement team (as applicable) must ensure that all Tenders are opened at the same time when the period for their submission has ended. Tenders must be opened in the presence of two nominated officers representing the relevant Assistant Director/Director, neither of whom can be the officer. Where the Total Value is more than the EU Threshold, one must be an Assistant Director.

There is no legal requirement for Members to be present at tender openings. However, where the total value is more than £50,000 a maximum of 2 Members can (should they wish to) observe. A list of Councillors available to attend tender openings will be collated. The relevant Portfolio Holder for the service and one other Councillor (by rota) will be made aware of the opening arrangements, by email, should they be sufficiently independent and wish to observe the opening process.

A record shall be maintained of all persons invited and present at each tender opening and declaration of interest form signed by the Councillors in attendance demonstrating that they are an independent party. The independent Councillor(s) and nominated officer shall initial each tender opened and shall sign and date a list of all tenders opened.

No person shall disclose the value, number or any other detail of the tenders received to any tenderer or anyone not involved with the tender evaluation procedure.

Submission of Electronic Tenders

With the implementation of the Council's E-Procurement System all tenders for the Procurement of supplies services and works will be submitted securely through the Council's electronic tender portal and will be opened through the e-procurement portal no earlier than one hour after the time specified in the invitation for the submission of tender.

- 13.7 Upon opening, a summary of the main terms of each Tender (i.e. significant issues that are unique to each Tender submission and were not stated in the Tender invitation documents such as Tender sum, construction period, etc.) must be recorded in the Tender Record Log. The summary must be initialled on behalf of the Assistant Director.

14. CLARIFICATION PROCEDURES AND POST-TENDER NEGOTIATION

- 14.1 Providing clarification of an Invitation to Tender to potential or actual Bidders or seeking clarification of a Tender, whether in writing or by way of a meeting, is permitted. However, discussions with tenderers after submission of a Tender and before the award of a Contract with a view to obtaining adjustments in price, delivery or content (i.e. post-tender negotiations) must be the exception rather than the rule. In particular, they must not be conducted in an EU Procedure where this might distort competition, especially with regard to price, officers should consult the Council's procurement and legal teams for confirmation on when and what is permitted.
- 14.2 If post-tender negotiations are necessary after a single-stage Tender or after the second stage of a two-stage Tender, then such negotiations shall only be undertaken with the tenderer who is identified as having submitted the best Tender and after all unsuccessful Bidders have been informed. During negotiations tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the Tender documents. Officers appointed by the relevant Assistant Director to carry out post-tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.
- 14.3 Post-tender negotiation must only be conducted in accordance with the guidance issued by the Assistant Director, Legal & Democratic who must be consulted wherever it is proposed to enter into post-tender negotiation.
- 14.4 Where post-tender negotiation results in a fundamental change (e.g. a change which introduces terms or conditions which, if they had been part of the initial award procedure, would have allowed for the admission of bidders other than those initially admitted or allowed; a change which extends the scope of the specification (or Contract terms) to encompass services not initially covered; or a change in the economic balance of a Contract in favour of the Contractor in a manner not provided for under the specification/Contract terms) to the specification (or Contract terms) the Contract must not be awarded but re-tendered. Advice on what constitutes a fundamental change should be sought from the Council's legal and procurement teams.

15. EVALUATION, AWARD OF CONTRACT, AND DE-BRIEFING BIDDERS

- 15.1 Apart from the debriefing required or permitted by these Contract Procedure Rules, the confidentiality of Quotations, Tenders and the identity of Bidders must be preserved at all times and information about one Bidder's response must not be given to another Bidder.

- 15.2 Contracts must be evaluated and awarded in accordance with the specified Award Criteria.
- 15.3 The arithmetic in compliant Tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their Tender. Alternatively, if the rates in the Tender, rather than the overall price, were stated within the Tender invitation as being dominant, an amended Tender price may be requested to accord with the rates given by the tenderer.
- 15.4 The officer or a Procurement Officer should notify in writing all those Bidders who submitted a Tender or Quotation about the reasons they were unsuccessful. No information, other than the following, should be given without taking the advice of the Council's legal and procurement teams.
- Pricing score / Total price (not the breakdown of individual priced elements)
 - Their individual quality score (as an average from the evaluation panel)
 - What was good about their submission and areas for improvement
 - Only compare themselves and the winner, not any other Bidders
- 15.5 If a Bidder requests in writing further reasons for a Contracting Decision, the officer must give the reasons in writing within 15 days of the request. If requested, the officer may also give the debriefing information at Rule 15.4 above to Bidders who were deselected in a pre-tender Shortlisting process.

SECTION 4: CONTRACT AND OTHER FORMALITIES

16. CONTRACT DOCUMENTS

16.1 Relevant Contracts

16.1.1 All Relevant Contracts that exceed £5,000 shall be in writing in a form agreed by the Assistant Director, Legal & Democratic.

16.1.2 All Relevant Contracts, irrespective of value, shall clearly specify:-

- what is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done);
- the provisions for payment (i.e. the price to be paid and when);
- the time, or times, within which the Contract is to be performed;
- the provisions for the Council to terminate the Contract

- ownership of Intellectual Property created by the contract.

16.1.3 The Council's order form (electronic order system) or standard terms and conditions issued by a relevant professional body must be used wherever possible.

16.1.4 In addition, every Relevant Contract of purchase over £50,000 must also state clearly as a minimum:-

- that the Contractor may not assign or sub-Contract without prior written consent;
- any insurance requirements;
- health and safety requirements;
- ombudsman requirements;
- data protection requirements, if relevant;
- that charter standards are to be met if relevant;
- Equality Act requirements;
- Freedom of Information Act requirements;
- Whistleblowing requirements;
- where Agents are used to let Contracts, that Agents must comply with the Council's Contract Procedure Rules;
- a right of access to relevant documentation and records of the Contractor for monitoring and audit purposes if relevant.

16.1.5 The formal advice of the Assistant Director, Legal & Democratic must be sought for the following Contracts:-

- where the Total Value exceeds EU Threshold;
- those involving leasing arrangements;
- where it is proposed to use a supplier's own terms;
- those involving the purchase of application software with a Total Value of more than £50,000;
- those that are complex in any other way.

16.1.6 The following clause must be inserted in every written Council Contract:-

"The Council may terminate this Contract with immediate effect and recover all its loss if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things.

- (a) offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council Contract (even if the Contractor does not know what has been done); or

- (b) commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972
- (c) commit an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972; or
- (d) commit any fraud in connection with this or any other Council Contract whether alone or in conjunction with Council Members, Contractors or employees.

Any clause limiting the Contractor's liability shall not apply to this clause"

16.2 Contract Formalities

16.2.1 Agreements (Contracts and Orders) shall be completed as follows:-

Total Value	Method of Completion	By
Up to £5,000	Electronic order	Authorised buyer (see Rule 16.2.3)
£5,001 to £50,000	Electronic order	Authorised Buyer approved by the relevant Assistant Director (see Rule 16.2.3)
Above £50,001	Signature on written Contract	Assistant Director, Legal & Democratic (see Rule 16.2.3)

16.2.2 All Contracts must be concluded in writing or by email before the supply of goods, provision of services or construction work begins; except in exceptional circumstance, and then only with the written consent of the relevant Assistant Director and a Procurement Officer.

16.2.3 The officer responsible for securing signature of the Contract must ensure that the person signing for the other Contracting party has authority to bind it.

16.2.4 All Contract documents must be placed in the central repository in accordance with Financial Regulations and Rule 2.2.1.

16.3 Sealing

16.3.1 Where Contracts are completed by each side adding their formal seal, such Contracts shall be signed in accordance with the Council's Standing Orders (Assistant Director, Legal & Democratic).

16.3.2 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal.

16.3.3 A Contract must be sealed where:-

- the Council may wish to enforce the Contract more than six years after its end;
- the price paid or received under the Contract is a nominal price and does not reflect the value of the goods or services.

17. BONDS AND PARENT COMPANY GUARANTEES

17.1 Bonds and Parent company guarantees are used as a means of insuring the Council against the risk of a contractor failing to fulfil contractual obligations and is prudent in contract management; particularly as an organisation's financial viability can be prejudiced through no fault of its own through the default/failure of other parties.

17.2 The officer must consult the Chief Finance Officer about whether a Parent Company Guarantee is necessary when a Bidder is a subsidiary of a parent company and:-

- the Total Value exceeds £250,000; or
- award is based on evaluation of the parent company; or
- there is some concern about the stability of the Bidder.

17.3 Contractors who wish to be considered for larger projects must have a performance bond facility in place.

17.4 Contractor's will be asked to price for a performance bond in every tender that is over **£50,000** regardless of the financial risk rating. If a Contractor has more than one contract where the cumulative value is **£50,000** or more and the project/s are at an early stage on site a bond must be taken out for the new contract under consideration.

17.5 The requirement for a bond must be stated in the tender documents. This must be shown as a separate line in the tender breakdown and the Contractor must be able to evidence the performance bond before award of contract. Contractors may take a commercial decision to absorb the price of the bond, in the same way that they decide on their profit margins for each job. It is therefore perfectly acceptable to enter a nil cost for the bond as long as the Contractor makes sure the bond is provided in a timely manner before the contract is awarded.

17.6 Following consideration of the economic uncertainty, evaluation results and complexity / risk associated to the contract the Chief Finance Officer will determine whether a Bond is needed.

- 17.7 Please note, where a performance bond is requested this is a non-negotiable part of the contract award process. The Council does not expect to experience time delays before the contract is awarded. Therefore the Contractor must make sure they are able to provide a bond during the tender pricing period so that they are ready to produce it if the award is made in their favour.

18. PREVENTION OF CORRUPTION

- 18.1 The officer must comply with the Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any Contract. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the statutes referred to in Rule 18.2 below.

- 18.2 The following clause **must** be put in every written Council Contract:-

“The Council may terminate this Contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor’s behalf do any of the following things:-

- (a) offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council Contract (even if the Contractor does not know what has been done), or
- (b) commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972, or
- (c) commit any fraud in connection with this or any other Council Contract whether alone or in conjunction with Council Members, Contractors or employees. Any clause limiting the Contractor’s liability shall not apply to this clause.”

19. DECLARATION OF INTERESTS

- 19.1 If it comes to the knowledge of a Member or an employee of the Council that a Contract in which he or she has a pecuniary interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Monitoring Officer. The Monitoring Officer shall report such declarations to the appropriate Committee.
- 19.2 Such written notice is required irrespective of whether the pecuniary interest is direct or indirect. An indirect pecuniary interest is distinct from a direct pecuniary interest in as much as it is not a Contract to which the Member or employee is directly a party.

- 19.3 A shareholding in a body not exceeding a total nominal value of £1,000 or 1% of the nominal value of the issued share capital (whichever is the less) is not a pecuniary interest for the purposes of this standing order.
- 19.4 The Monitoring Officer shall maintain a record of all declarations of interests notified by Members and officers.
- 19.5 The Monitoring Officer shall ensure that the attention of all Members is drawn to the National Code of Local Government Conduct.

SECTION 5: CONTRACT MANAGEMENT

20. MANAGING CONTRACTS

- 20.1 Members of the Leadership Team in sponsoring departments are to name Contract managers for all new Contracts. All Contracts must have a named Council Contract manager for the entirety of the Contract.
- 20.2 Contract Managers must follow the procedures set out in the Council's Purchasing Guidance to ensure continuous improvement and Value for Money is achieved. Members of the Leadership Team must ensure that those responsible for managing contracts ensure:-
- contract performance and key performance indicators are met;
 - compliance with specification and contract terms; and
 - cost management including reconciliation of payments against work done, supplies or services delivered and, where payments are made in stages, keeping a contract register showing the state of account on each contract in accordance with Financial Regulations.

21. RISK ASSESSMENT AND CONTINGENCY PLANNING

- 21.1 A business case must be prepared for all procurements with a potential value over the EU Threshold. Provision for resources for the management of the Contract, for its entirety, must be identified in the business case.
- 21.2 For all Contracts with a value of over £50,000, Contract managers must:-
- maintain a risk register during the Contract period;
 - undertake appropriate risk assessments and for identified risks;
 - ensure contingency measures are in place.

22. CONTRACT MONITORING, EVALUATION AND REVIEW

- 22.1 All Contracts which have a value higher than the EU Threshold limits, or which are High Risk, are to be subject to monthly formal review with the Contractor. The review may be conducted quarterly if permitted by the Assistant Director, Assets & Commercial.
- 22.2 For all Contracts with a value higher than the EU Threshold limits, or which are High Risk, an annual report must be submitted to the relevant Committee.
- 22.3 The Council's approved project management methodology must be applied to all Contracts deemed to be High Risk, High Value, or High Profile.
- 22.4 During the life of the Contract, the officer must monitor in respect of:-
- contract performance and key performance indicators are met;
 - compliance with specification and Contract terms;
 - cost management including reconciliation of payments against work done, supplies or services delivered and, where payments are made in stages, keeping a contract register showing the state of account on each contract in accordance with Financial Regulations;
 - user satisfaction and risk management.
- 22.5 Where the Total Value of the Contract exceeds £250,000, the officer must make a written report to the Executive evaluating the extent to which the purchasing need and the Contract objectives (as determined in accordance with Rule 5.2) were met by the Contract. This should be done normally when the Contract is completed. Where the Contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent Contract.

Officer Employment Procedure Rules

OFFICER EMPLOYMENT PROCEDURE RULES

1 Recruitment and Appointment

- (a) Declarations
 - (i) The Council will draw up a statement requiring any candidate for appointment as an officer 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, officer of the Council or the partner of such persons.
 - (ii) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.
- (b)
 - (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
 - (ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.
 - (iii) Nothing in paragraphs (i) and (ii) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

2 Recruitment of Joint Head of Paid Service and Chief Officers

Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:-

- (a) draw up a statement specifying:-
 - (i) the duties of the officer 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 paragraph (1) to be sent to any person on request.

3 Appointment of Joint Head of Paid Service

The Full Council will approve the appointment of the Joint Head of Paid Service following the recommendation of such an appointment by the Chief Officer Appointments Committee.

4 Appointment of Chief Officers

The Chief Officer Appointments Committee will appoint Chief Officers.

5 Other Appointments

- (a) **Officer below Chief Officer.** Appointment of Officers below Chief Officer (other than assistants to political groups) is the responsibility of the Joint Head of Paid Service or his/her nominee, and may not be made by Councillors.
- (b) **Assistants to Political Groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6 Disciplinary Action Against Chief Finance Officer, Joint Head of Paid Service and Monitoring Officer

6.1 In the following paragraphs:-

- (a) “the 2011 Act” means the Localism Act 2011 (b);
- (b) “chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
- (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
- (d) “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;
- (e) “the Panel” means a committee appointed under the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
- (f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
- (g) “relevant officer” means the Chief Finance Officer, Head of the authority’s Paid Service or Monitoring Officer, as the case may be

- 6.2 A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.
- 6.3 The authority must invite relevant independent persons to be considered for appointment to the panel, with a view to appointing at least two such persons to the panel.
- 6.4 In paragraph 3 “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.
- 6.5 Subject to paragraph 2.6, the authority must appoint to the panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with the following priority order:-
- (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
 - (b) any other relevant independent person who has been appointed by the authority;
 - (c) a relevant independent person who has been appointed by another authority or authorities.
- 6.6 An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 5, but may do so.
- 6.7 The authority must appoint any panel at least 20 working days before the relevant meeting.
- 6.8 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.
- 6.9 Any remuneration, allowances or fees paid by the authority to an independent person appointed by the panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person’s role as independent person under the 2011 Act.

7 Disciplinary Action and Dismissal of any Officer Below Chief Officers

- 7.1 Councillors will not be involved in the disciplinary action against any officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to Members in respect of disciplinary action.
- 7.2 Councillors will not be involved in the dismissal of any officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to Members in respect of dismissal.

**Arrangements setting out how a
complaint may be made that a
Member has failed to comply with
the Councillors' Code of Conduct**

Complaints Procedure

1 Context

- 1.1 These “arrangements” set out how you may make a complaint that an elected or co-opted Member of this authority (*or of a Parish/Town Council within its area*) has failed to comply with the Councillors’ Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the Councillors’ Code of Conduct.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Member or co-opted Member of the authority (*or of a Parish/Town Council within the authority’s area*), or of a Committee or Sub-Committee of the authority, has failed to comply with the Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Such “arrangements” must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation that it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a Member (*or a Member or co-opted Member of a Parish/Town Council*) against whom an allegation has been made.

2 The Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for Councillors, which is available for inspection on the authority’s website and on request from Reception at the Council Offices. Each Parish/Town Council is also required to adopt a Code of Conduct, which is similarly available.

3 Making a Complaint

- 3.1 The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the Register of Members’ Interests and who is responsible for administering the system in respect of complaints of Member misconduct.
- 3.2 In order to ensure that we have all the information that we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the authority’s website, next to the Code of Conduct, and is available on request from the Reception at the Council Offices.
- 3.3 Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

- 3.4 The Monitoring Officer will acknowledge receipt of your complaint within five working days of receiving it, and will keep you informed of the progress of your complaint.
- 3.5 The Complaints Procedure Flowchart is attached at Appendix 1 for your assistance.

4. Will your complaint be investigated?

- 4.1 The Monitoring Officer will review every complaint received and may consult with one of the Independent Persons before taking a decision as to whether it:-
- 4.1.1 Merits no further action
- 4.1.2 Merits early informal conciliation
- 4.1.3 Should be referred to the Standards Committee to consider whether the complaint needs further investigation.

In reaching a decision in respect of how to progress the complaint the Monitoring Officer will take into account the following factors where appropriate:-

- Was the Member acting in their official capacity?
 - Was the Member in office at the time of the alleged misconduct?
 - Is the complaint of a very minor or trivial nature?
 - Is the complaint vexatious or malicious?
 - Are there historical matters?
 - Is there a potential breach of the Code?
 - Assessment of public interest?
 - Is additional information required prior to making a decision?
- 4.2 This decision will normally be taken within 28 working days of receipt of your complaint. Your complaint will be considered in accordance with the assessment criteria attached at Appendix 2. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision. Where the Monitoring Officer requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the Member against whom your complaint is directed. *(Where your complaint relates to a Parish/Town Councillor, the Monitoring Officer may also inform the Parish/Town Council of your complaint and seek the views of the Parish/Town Council before deciding whether the complaint merits formal investigation.)*
- 4.3 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the Member or the authority make a

reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.

- 4.4 If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police or other regulatory agencies.

5. How is the investigation conducted?

- 5.1 The Council has adopted a procedure for the investigation of misconduct complaints, which is attached at Appendix 3 to these “arrangements”.
- 5.2 If the Monitoring Officer decides that a complaint merits further investigation, he/she may appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer or Monitoring Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen, and who needs to be interviewed.
- 5.3 The Investigating Officer or Monitoring Officer will normally write to the Member against whom you have complained and provide him/her with a copy of your complaint, and ask the Member to provide his/her explanation of events, and to identify what documents he/she needs to see and who he/she needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the Member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the Member, or delay notifying the Member until the investigation has progressed sufficiently.
- 5.4 At the end of his/her investigation, the Investigating Officer or Monitoring Officer will produce a draft report (“the Investigation Report”) and will send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.
- 5.5 Having received and taken account of any comments that you may make on the draft Investigation Report, where an Investigating Officer has been appointed the Investigating Officer will send his/her final report to the Monitoring Officer.

6. What happens if the Investigating Officer or Monitoring Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

- 6.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer’s report and, if he/she is satisfied that

the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Member concerned (*and to the Parish/Town Council, where your complaint relates to a Parish/Town Councillor*), notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Investigation Final Report.

- 6.2 If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.

7. What happens if the Investigating Officer or Monitoring Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

- 7.1 If an Investigating Officer has been appointed, the Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing before the Standards Sub-Committee or, in consultation with the Independent Person, seek an informal resolution.

Informal Resolution

- 7.1.1 The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you may consider to be a fair resolution, which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee (*and the Parish/Town Council*) for information, but will take no further action.

Hearing

- 7.1.2 If the Monitoring Officer considers that informal resolution is not appropriate, or the Member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigation Report to the Sub-Committee, which may conduct a hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.

The Council has agreed a procedure for hearing complaints, which is attached at Appendix 4.

At the hearing, the Investigating Officer or the Monitoring Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Member has failed to comply with the

Code of Conduct. For this purpose, the Investigating Officer or Monitoring Officer may ask you as the complainant to attend and give evidence to the Sub-Committee. The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the Member did not fail to comply with the Code of Conduct, and dismiss the complaint. If the Sub-Committee concludes that the Member did fail to comply with the Code of Conduct, the Chairman will inform the Member of this finding and the Sub-Committee will then consider what action, if any, the Sub-Committee should take as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the Member an opportunity to make representations and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

8. What action can the Standards Sub-Committee take where a Member has failed to comply with the Code of Conduct?

- 8.1 The Council has delegated to the Sub-Committee such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly the Sub-Committee may:-
- 8.1.1 Publish its findings in respect of the Member's conduct;
 - 8.1.2 Report its findings to Council (*or to the Parish/Town Council*) for information;
 - 8.1.3 Recommend to Council (*or to the Parish/Town Council*) that he/she be issued with a formal censure or be reprimanded;
 - 8.1.4 Recommend to the Member's Group Leader (or in the case of un-grouped Members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - 8.1.5 Recommend to the Leader of the Council that the Member be removed from the Executive, or removed from particular Portfolio responsibilities;
 - 8.1.6 Instruct the Monitoring Officer (*or recommend that the Parish/Town Council*) to arrange training for the Member;
 - 8.1.7 Remove (*or recommend to the Parish/Town Council that the Member be removed*) from all outside appointments to which

he/she has been appointed or nominated by the authority (*or by the Parish/Town Council*);

- 8.1.8 Withdraw (*or recommend to the Parish/Town Council that it withdraws*) facilities provided to the Member by the Council, such as a computer, website and/or email and internet access; or
- 8.1.9 Exclude (*or recommend that the Parish/Town Council excludes*) the Member from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

8.2 The Sub-Committee has no power to suspend or disqualify the Member or to withdraw Members' or special responsibility allowances.

9. What happens at the end of the hearing?

- 9.1 At the end of the hearing, the Chairman will state the decision of the Standards Sub-Committee as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee has resolved to take.
- 9.2 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Sub-Committee, and send a copy to you, to the Member, to the Parish/Town Council Clerk if the complaint relates to a Parish/Town Council.

10. What is the Standards Sub-Committee?

- 10.1 It is a Sub-Committee comprising Councillors appointed to the authority's Standards Committee.
- 10.2 A Parish/Town Councillor who is a Member of the Standards Committee will be invited to attend the Sub-Committee.
- 10.3 The Independent Person is invited to attend all Sub-Committee meetings and his/her views are sought and taken into consideration before the Sub-Committee takes any decision on whether a Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11. Who is the Independent Person?

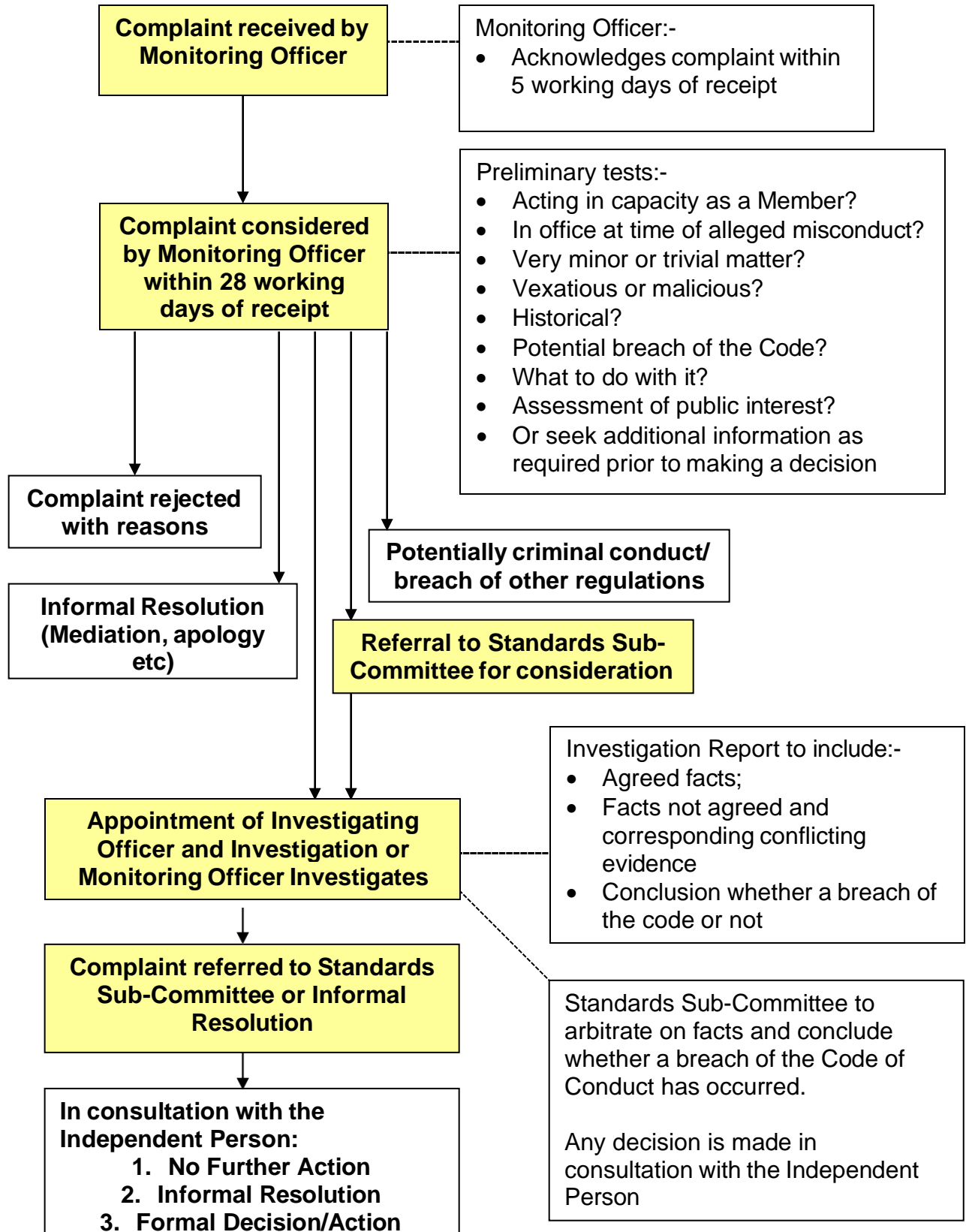
- 11.1 The Independent Person is a person who has applied for the post following advertisement of a vacancy, and is appointed by a positive vote from a majority of all Members of the Council.
- 11.2 A person cannot be "independent" if he/she:-

- 11.2.1 Is, or has been within the past five years, a Member, co-opted Member or officer of the authority, subject to the transitional provisions applicable to existing Independent Members;
- 11.2.2 Is or has been within the past five years, a Member, co-opted Member or officer of a Parish/Town Council within the authority's area.

12. Appeals

- 12.1 There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer or of the Sub-Committee.

Appendix 1 Complaints Procedure Flowchart



Appendix 2

Standards Complaints Assessment Criteria

Complaints that would not normally be referred for investigation:-

- (1) The complaint is not considered sufficiently serious to warrant investigation; or
- (2) The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
- (3) The complaint appears to be politically motivated; or
- (4) It appears that there can be no breach of the Code of Conduct; for example, that it relates to the Councillor’s private life or is about dissatisfaction with a Council decision; or
- (5) It is about someone who is no longer a Councillor.
- (6) There is insufficient information available for a referral; or
- (7) The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances; for example, an allegation of bullying, harassment etc; or
- (8) The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
- (9) The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Standards Sub-Committee; or
- (10) It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct.
- (11) Where the Member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

Complaints that may be referred to the Standards Committee:-

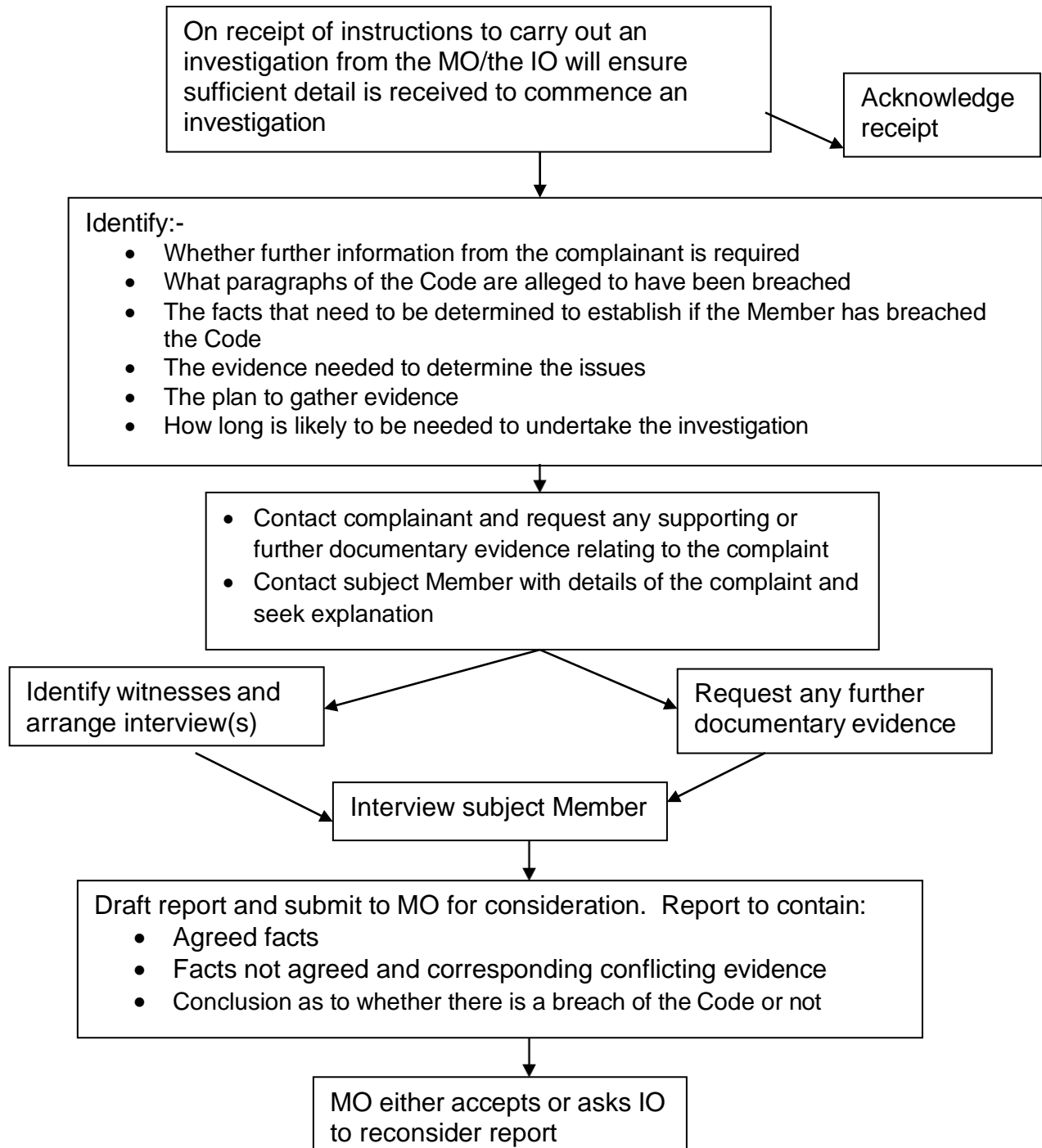
- (1) The complaint is serious enough, if proven, to justify the range of actions available to the Standards Sub-Committee; or
- (2) There are individual acts of minor misconduct that appear to be part of a continuing pattern of behaviour that is unreasonably disrupting the business.

Appendix 3

Investigation Procedure

The investigating officer will maintain a written record of what was considered at the start of the investigation, the plan to carry out the investigation, the paragraphs of the Code that may have been breached, the facts needing to be determined and how long it will take to conclude the investigation.

A written Investigation Report will need to be prepared by the investigating officer (IO) for consideration by the Council's Monitoring Officer (MO).



Appendix 4

Standards Sub-Committee Hearing Procedure Rules

Item No	Procedure
1	<p><u>Quorum</u></p> <p>1.1. Three District Council Members must be present throughout the hearing to form a quorum.</p> <p>1.2. The Sub-Committee shall nominate a District Council Member as Chairman for the meeting.</p>
2	<p><u>Opening</u></p> <p>2.1 The Chairman explains the procedure for the hearing.</p> <p>2.2 The Chairman asks all present to introduce themselves.</p> <p>2.3 The Member against whom the complaint has been made (or his/her representative) will be asked whether they wish to briefly outline his/her position.</p>
3	<p><u>The Complaint</u></p> <p>3.1 The Monitoring Officer will be invited to present his/her report including any documentary evidence or other material (and to call witnesses as required). This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed.</p> <p>3.2 The Member against whom the complaint has been made (or his/her representative) may question the Monitoring Officer upon the content of his/her report and any witnesses called by the Monitoring Officer. (This is the Member's opportunity to ask questions arising from the Monitoring Officer's report; not to make a statement.)</p> <p>3.3 Members of the Sub-Committee may question the Monitoring Officer upon the content of his/her report and/or any witnesses called by the Monitoring Officer.</p>
4	<p><u>The Member's case</u></p> <p>4.1 The Member against whom the complaint has been made (or his/her representative) may present his/her case (and call any witnesses as required).</p>

	<p>4.2 The Monitoring Officer may question the Member and/or any witnesses.</p> <p>4.3 Members of the Sub-Committee may question the Member and/or any witnesses.</p>
5	<p><u>Summing Up</u></p> <p>5.1 The Monitoring Officer may sum up the Complaint.</p> <p>5.2 The Member (or his/her representative) may sum up his/her case.</p>
6	<p><u>Decision</u></p> <p>6.1 Members of the Sub-Committee will deliberate in private to consider the complaint, in consultation with the Independent Person, prior to reaching a decision.</p> <p>6.2 Upon the Sub-Committee's return the Chairman will announce the Sub-Committee's decision in the following terms:-</p> <ul style="list-style-type: none"> (a) The Sub-Committee has decided that the Member has failed to follow the Code of Conduct or (b) The Sub-Committee has decided that the Member has not failed to follow the Code of Conduct. (c) The Sub-Committee will give reasons for its decision. <p>6.3 If the Sub-Committee has decided that the Member has failed to follow the Code of Conduct the Sub-Committee will consider any representations from the Monitoring Officer and/or the Member as to:-</p> <ul style="list-style-type: none"> (a) Whether any action should be taken and (b) What form any action should take. <p>6.4 The Sub-Committee will then deliberate in private to consider what action if any should be taken, in consultation with the Independent Person.</p> <p>6.5 On the Sub-Committee's return the Chairman will announce the Sub-Committee's decision (or, in relation to a Parish/Town Councillor, its recommendation to the</p>

	Parish/Town Council).
6.6	The Sub-Committee will consider whether it should make any recommendations to the Council or, in relation to a Parish/Town Councillor, to the Parish/Town Council with a view to promoting high standards of conduct among Members.
6.7	The Chairman will confirm that a full written decision will be issued within 7 working days following the hearing and that the Sub-Committee's findings will be published.

PART 5

CODES AND PROTOCOLS

ROCHFORD DISTRICT COUNCIL MEMBERS' CODE OF CONDUCT

DEFINITIONS

For the purpose of this Code of Conduct, a “Councillor” means a Member or co-opted Member of a local authority or a directly elected Mayor. A “co-opted Member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a Member of the authority but who

- a) Is a Member of any Committee or Sub-Committee of the authority, or;
- b) Is a Member of, and represents the authority on, any Joint Committee or Joint Sub-Committee of the authority;

And who is entitled to vote on any question that falls to be decided at any meeting of that Committee, Sub-Committee, Joint Committee or Joint Sub-Committee”.

PURPOSE OF THE CODE OF CONDUCT

The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillor and local government.

GENERAL PRINCIPLES OF COUNCILLOR CONDUCT

Everyone in public office at all levels; who all serve the public or deliver public services, including ministers, civil servants, Councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles – see **Appendix A**.

Building on these principles, the following general principles have been developed specifically for the role of Councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of Councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and

- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

APPLICATION OF THE CODE OF CONDUCT

This Code of Conduct applies to you as soon as you sign your Declaration of Acceptance of office of Councillor or attend your first meeting as a co-opted Member and continues to apply to you until you cease to be a Councillor.

This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:

- You misuse your position as a Councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor;

The Code applies to all forms of communication and interaction, including:

- At face-to-face meetings
- At online or telephone meetings
- In written communication
- In verbal communication
- In non-verbal communication
- In electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and Parish Councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

STANDARDS OF COUNCILLOR CONDUCT

This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

GENERAL CONDUCT

1. Respect

As a Councillor:

1.1 Treat other Councillors and members of the public with respect.

1.2 Treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Councillors, where action could then be taken under the Members' Code of Conduct and local employees where concerns should be raised in line with the local authority's protocol on Member/Officer relations.

2. Bullying, harassment and discrimination

As a Councillor:

2.1 I do not bully any person

2.2 I do not harass any person

2.3 I promote equalities and do not discriminate unlawfully against any person

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the Council

As a Councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try to force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a Councillor:

4.1 I do not disclose information:

- a) Given to me in confidence by anyone**
- b) Acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**

- i I have received the consent of a person authorised to give it;**
- ii I am required by law to do so;**
- iii the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
- iv the disclosure is:**
 - 1. Reasonable and in the public interest; and**
 - 2. Made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a Councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful

can bring your local authority into disrepute.

You are able to hold the local authority and fellow Councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this code of Conduct.

Use of position

As a Councillor:

5.2 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a Member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

6. Use of local authority resources and facilities

As a Councillor:

6.1 I do not misuse Council resources.

6.2 I will, when using the resources of the local authority or authorising their use by others:

- a. Act in accordance with the local authority's requirements; and**
- b. Ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Councillor.

Examples include:

- Office support
- Stationery
- Equipment such as phones, and computers
- Transport
- Access and use of local authority buildings and rooms

These are given to you to help you carry out your role as a Councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

7. Complying with the Code of Conduct

As a Councillor:

7.1 I undertake Code of Conduct training provided by my local authority

7.2 I co-operate with any Code of Conduct investigation and/or determination

7.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings

7.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

PROTECTING YOUR REPUTATION AND THE REPUTATION OF THE LOCAL AUTHORITY

8. Interests

As a Councillor:

8.1 I register and disclose my interests

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of Members of the authority.

You need to register your interests so that the public, local authority employees and fellow Councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

Gifts and hospitality

As a Councillor:

8.2 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

8.3 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

8.4 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Councillor. The presumption should always be not to accept

significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor. If you are unsure, do contact your Monitoring Officer for guidance.

APPENDICES

Appendix A – The Seven Principles of Public Life

The principles are:

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 disclose 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.

Appendix B - Registering Interests

Within 28 days of becoming a Member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are described in “The relevant Authorities (Disclosable Pecuniary Interests) regulations 2012”.

You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registrable Interests)**.

“**Disclosable Pecuniary Interest**” means an interest of yourself, or of your partner if you are aware of your partner’s interest, within the descriptions set out in Table 1 below.

“**Partner**” means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is an interest which, if disclosed, could lead to the Councillor, or a person connected with the Councillor, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Member of the Executive in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

Disclosure of Other Registrable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or well-being of one of your Other Registrable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest.

Disclosure of Non-Registrable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which **affects** –

- a. Your own financial interest or well-being;
- b. A financial interest or well-being of a relative or close associate; or
- c. A financial interest or well-being of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied:

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:

- a. To a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. A reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registrable Interest or Non-Registrable Interest on a matter to be considered or is being considered by you as a Member of the Executive in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made to the Councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a Councillor, or towards his/her 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.
Contracts	Any contract made between the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the Council (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land and Property	Any beneficial interest in land which is within the area of the Council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses./civil partners (alone or jointly with another) a right to occupy or to receive income.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.
Corporate Tenancies	Any tenancy where (to the Councillor's knowledge): (a) The landlord is the Council; and (b) The tenant is a body that the Councillor, or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in

	the securities* of.
Securities	<p>Any beneficial interest in securities* of a body where:</p> <p>(a) That body (to the Councillor's knowledge) has a place of business or land in the area of the Council; and</p> <p>(b) Either:</p> <p>(i) The total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Councillor, or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners, have a beneficial interest that exceeds one hundredth of the total issued share capital of that class</p>

*'director' includes a Member of the committee of management of an industrial and provident society.

*securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests

You must register as an Other Registrable Interest:

- a) Any unpaid directorships
- b) Any body of which you are a Member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) Any body
 - (i) Exercising functions of a public nature
 - (ii) Directed to charitable purposes or
 - (iii) 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.

Appendix C – The Committee on Standards in Public Life

Currently the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on Local Government Ethical Standards. If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the code of conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

The Local Government Ethical Standards report also includes best practice recommendations. These are:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring Councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by Councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both Councillors and the public, in a prominent position on a Council's website and available in Council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on any allegations and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a Parish Councillor towards a Clerk should be made by the Chair or by the Parish Council, rather than the Clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to Parish Councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan Principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

CODE OF GOOD PRACTICE FOR PLANNING MATTERS

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A. Introduction

1. The Aim of this Code of Good Practice

To ensure that in the planning process all decisions are unbiased, impartial, and well founded.

2. Your Role as a Member of the Development Committee

To control development and to make decisions openly, impartially, with sound judgment and for justifiable planning reasons. You are also a democratically accountable decision maker who has been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political or personal views and policies provided that you have considered all material considerations and have given fair consideration to relevant points raised. Members should have read the reports prior to the Development Committee meeting.

3. When the Code of Good Practice Applies

This code applies to Members at all times when involving themselves in the planning process (this includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public, and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

B. Relationship to the Code of Conduct – Points for Members

- **Do** apply all of the rules in the Code of Conduct for Members t.
- **Do** then apply the rules in this Code of Good Practice for Planning Matters, which seek to explain and supplement the Code of Conduct for Members .
- Failure to abide by this Code of Good Practice for Planning Matters may put:-

- the Council at risk of proceedings in respect of the legality or maladministration of the related decision;
- you at risk of a complaint to the Monitoring Officer; and
- you at risk of being named in a report made to the Council, or if the failure is also likely to be a breach of the interest provisions of the Localism Act 2011 (as amended), a complaint being made to the police to consider criminal proceedings.

C. Development Proposals and Interests under the Members' Code of Conduct

- **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members.
Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter. All Members in attendance are required to disclose the existence or nature of any interest.

Where your interest is a Disclosable Pecuniary or Other Pecuniary interest:-

- **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.
- **Don't** get involved in the processing of the application, save as mentioned below.
- **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have an Other Pecuniary Interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
- **Do** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a Disclosable Pecuniary or Other Pecuniary or conflict of interest to an appropriate officer, in person or in writing, the Code places limitations at the Development Committee on you in representing that proposal. You may listen to and observe officers' presentation and any public speakers. You may address the Committee but only to make a presentation in the same manner that would apply to a normal member of the public, of up to five minutes, after which you must leave the Chamber before the commencement of any debate on the application. You may not remain in the room where the meeting is held.
- **Do** notify the Monitoring Officer of the details as soon as you become aware that you have a disclosable pecuniary interest or other pecuniary interest.

D. Bias and Predetermination

For Members/Substitute Members of the Development Committee:

It is essential that Members attend with an open mind, prepared to consider all evidence and arguments presented to them. A Member who has, or is to have, a biased view or a pre-determined position cannot vote or participate in the relevant matter.

The test would be if a member of the public with knowledge and relevant facts would conclude that there is a possibility of bias that could prejudice your judgment. A perception of bias can be sufficient to render a planning decision vulnerable to legal challenge.

- **Do** be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011 (as amended).
- **Do** keep at the front of your mind that, when you come to make the decision, you
 - are entitled to have and to have expressed your own views on the matter, provided you are prepared to reconsider your position in the light of all the evidence and arguments;
 - must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice, as well as the arguments from all sides;
 - are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a Member, in giving fair consideration to points raised;
 - are only entitled to take account of a material consideration and must disregard consideration irrelevant to the question and legal context at hand; and
 - are to come to a decision after giving what you feel is the right weight to those material considerations.
- **Do** be aware that you are likely to be biased and predetermined where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal (this is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits).
- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a Member of the Parish Council, for example, or both a District and County Councillor), provided that the proposal does not substantially affect the well being or financial standing of the consultee body, and you make it clear to the consultee body that:-
 - your views are expressed on the limited information before you only;
 - you must reserve judgment and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information;
 - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
 -

- your membership or role is a Non-Pecuniary Interest
- **Do** explain to the consultee body that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.
- **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member where you have represented your views or those of local electors and have a personal interest in the matter d, but do not have a disclosable or other pecuniary interest. Where you do:-
 - advise the proper officer or Chairman that you wish to speak in this capacity before commencement of the item;
 - remove yourself from the Member seating area for the duration of that item.

E. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Do** contact the Assistant Director, Place & Environment where you think a formal meeting with applicants, developers or groups of objectors might be helpful. You should never seek to arrange that meeting yourself. If a meeting is organised, officers will ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- **Do** otherwise:-
 - follow the rules on lobbying as set out in part F below;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - report to the Assistant Director, Place & Environment any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition, in respect of presentations by applicants/developers:-

- **Don't** attend a private planning presentation not open to the general public unless an officer is present and is open to all Members.
- **Do** attend a public meeting or exhibition to gather information about planning proposals.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.

- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out by the Development Committee.
- **Do** be aware that a presentation is a form of lobbying – you can express views, but must not give an indication of how you or other Members might vote.

F. Lobbying of Councillors

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Committee's decision making to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- **Do** promptly refer to the Assistant Director, Place & Environment any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** copy or pass on any lobbying correspondence you receive to the Assistant Director, Place & Environment at the earliest opportunity.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including offers of gifts or hospitality), who will in turn advise the appropriate officers to investigate.
- **Do** note that, unless you have a Disclosable Pecuniary Interest or an Other Pecuniary Interest', you will not have fettered your discretion or breached this Code of Good Practice for Planning Matters through:-
 - listening or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
 - attending a meeting with the developer or applicant organised by the Assistant Director, Place & Environment that is conducted in accordance with the rules set out in the Code of Conduct and this good practice guide;
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

G. Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is your intention to openly campaign on the matter. You should have no involvement in the decision-taking process in the matter and you should remove yourself from the Committee for the duration of that item
- **Do** feel free to join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, Ramblers Association or a local civic society, but disclose a Non-Pecuniary Interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgment and the independence to make up your own mind on each separate proposal.
- **Don't** lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

H. Site Visits

- **Do** request an early site visit by contacting the relevant team leader if you think one is required.
- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:-
 - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the Committee.
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make

- representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views to anyone
- **Don't** enter a site not open to the public which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias.

I. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

J. Officers

- **Don't** put pressure on officers to put forward a particular recommendation (this does not prevent you from asking questions or submitting views to the Assistant Director, Place & Environment, which may be incorporated into any Committee report).
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with an Assistant Director or those officers who are authorised by their Assistant Director to deal with the proposal at a Member level.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.
- **Do** give officers the opportunity to report verbally on all applications reported to the Development Committee for determination.

K. Decision Making

- When making a decision on a planning application, Members must take a proactive role, and in accordance with the development plan, unless there are material considerations that indicate otherwise. The National Planning Policy Framework sets out a presumption in favour of sustainable development, and requires Members to approach decision-taking in a positive way.
- Members can come to a decision which differs from the recommendation of the officer, but it must be justified on planning grounds (based on the policies, development plans and material considerations). Evidence provided with an application would have been

through the planning process and tested in accordance with legislation, formulae and technical methodology.

- Members must give material planning reasons.
- Members should, in accordance with national policy, take a objective approach and facilitate appropriate development and make a decision taking into account the Council's own development plan, national policy and material considerations, including the comments and views of the statutory consultees and residents. Guidance on material consideration can be provided by the Assistant Director, Place & Environment.

Do ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation following a Weekly List report, you email the Corporate Services Team (corporate.services@rochford.gov.uk) and include the application number, address and the planning reasons for referral. If an application is referred close to the deadline it may be prudent for a Member to telephone the Corporate Services Team to ensure that the referral has been received prior to the deadline.

- **Do** comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan and the National Planning Policy Framework unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision, including any information presented through an addendum to a Committee report and maybe reported verbally by officers.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present during the entire debate on any particular item, including the officers' introduction to the matter.
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan, that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded.
- **Do** note that applications should not generally be deferred. Where they are deferred by Members, the material planning reasons for doing so must be clearly stated i.e. for clarification purposes or absence of information as requested by Members.
- **Do** be aware that in the event of an appeal the Council will have to justify the resulting decision and that there could, as a result, be a costs award against the Council, if the reasons for refusal cannot be substantiated and if the Council has been deemed to have not acted reasonably.

L. Training

- **Don't** participate in a vote at meetings dealing with planning matters if you have not attended the required planning training offered by the Council.
- **Do** endeavour to attend any other specialised training sessions provided.

PROTOCOL FOR OUTSIDE BODIES

MEMBERS' AND OFFICERS' RESPONSIBILITIES & LIABILITIES

Members and officers acting on outside bodies may attract personal liability depending on the legal nature of the body and the role fulfilled by the Member or officer. The Council may only delegate its functions to Committees or employees of the Council. This means that Members can only represent the Council on outside bodies as observers or facilitators assisting in the exchange of information. Members cannot make decisions binding the Council unless it is with the authority of the Council in order to implement a decision that the Council has made. Members are therefore not allowed to represent the Council in an Executive capacity on an outside body. Members may serve on outside bodies in their personal capacity, provided that there is no conflict of interest with their duties as a Member.

The following is intended to provide some useful guidelines. It is a Member/officer's responsibility to ensure that they are aware of their liabilities and any insurance arrangements where they participate on outside bodies. Where uncertainty exists, seek guidance from the Assistant Director, Legal & Democratic or independent legal advice.

1 The Council may only indemnify Members and Officers in Certain Circumstances as Prescribed by the Local Authorities (Indemnity for Members & Officers) Order 2004.

The Council will provide an indemnity in relation to any action or failure to act by any Member or officer which:-

- (a) is authorised by the Council or the Executive and/or;
- (b) forms part of, or arises from, any powers conferred or duties placed upon that Member or officer at the request, or with the approval of, the Authority, including acting as the Council's representative on an outside body;
- (c) arises in respect of the cost of defending any claim for an allegation of defamation by a Member or officer acting in an official capacity (but not in respect of any punitive or exemplary damages or arising from malicious or injurious falsehood);
- (d) is in respect of any investigation, hearing or other proceedings for an alleged failure to comply with the Code of Conduct for Members but, if the Member is found to have breached the Code of Conduct, and where an appeal is unsuccessful, then that Member shall reimburse the Authority or the Insurer for their costs incurred in relation to those proceedings.

The indemnity includes an act or omission subsequently found to be beyond the powers of the Member or officer in question, but only to the extent that the Member or officer reasonably and genuinely believed that the act or omission was within his/her powers at the time he/she acted.

The indemnity does not apply to the defence of any criminal proceedings brought against a Member or officer unless specifically approved by the Council and then

only on similar basis to that relating to proceedings for breaches of the code with regard to reimbursement.

2 A Member's Role on an Outside Body may Occasionally Give Rise to a Conflict of Interest.

If a Member is a director or on the management committee of an outside body, it is likely that their prime duty is to the outside body. Where the Member has been appointed by the Authority as its representative this will not necessarily exclude the Member from participating in Council decision making, even when the outside body is directly affected, as membership of an outside body need not be regarded as a prejudicial interest under the terms of the Code of Conduct. However, there may be circumstances where a prejudicial interest might arise and Members should seek advice if they are unsure of their position.

In some instances a Member may also find that they are unable to properly carry out their functions as a Member of Council and a Member of the outside body. In such a case the Member may consider resigning from one or other body. Members are advised to seek advice from the Joint Chief Executive or Assistant Director, Legal & Democratic before taking such action.

3 There are General Duties that Apply to Members and Officers Whether They Act in the Role of Company Director or Trustee or Member of an Unincorporated Body.

The Member or officer is under a duty to exercise independent judgment in the interest of the organisation in which they are involved. If the Member or officer is involved in the outside body in a representative capacity, this must be declared to the outside body. A mandate from the Council to vote in one way or another would put the Member or officer in breach of the duty to the organisation.

Members and officers must also ensure that avoidable loss is not incurred in managing the organisation. They must make sure that they have regard to all appropriate reports and papers. They are expected to seek professional advice where appropriate.

The Member/officer must act in accordance with the rules, Constitution and framework set by the outside body.

A report back must be made twice per year into the Members' Bulletin.

At all times Members and officers must behave ethically, taking an informed role in the outside body's affairs.

Members must represent the Council and not the political party to which they owe their loyalty.

4 Before Accepting a Role in a Decision-Making Capacity in Any Outside Organisation Consider the Following:-

How onerous are the responsibilities likely to be? Do you have the time and capacity to take them on?

Is there likely to be any significant conflict of interest between your role in the outside organisation and your Council role? If so, consider refusing the office.

Assess the risk of things going wrong, which might give rise to personal liability. Things to consider include the nature and function of the body and the amount of money with which it deals. Always be aware of the added risks where an organisation employs staff.

In each case the issue of insurance should be considered. Find out if the external body has insurance and if so whether it would cover the key risks of the organisation as well as yourself. Find out if your liability is limited or unlimited.

If not, would the organisation consider taking out insurance. If no insurance exists, and indemnity does not apply, this must be weighed in the decision to accept the appointment. Make sure that you are aware of your major responsibilities and liabilities. A guideline on the respective duties and liabilities in relation to companies, trusts and unincorporated associations, is available from the Assistant Director, Legal & Democratic.

OFFICERS' CODE OF CONDUCT

1 Introduction

- 1.1 This Code of Conduct applies to all employees of the Council. It explains in practical terms the standards of behaviour required under the law, under Conditions of Service, and under Council policy and Procedure Rules.

2 Status of the Code

- 2.1 The Code sets out the minimum standards that apply and lays down guidelines that will help improve standards and protect employees from misunderstanding or criticism. The Code will be regularly reviewed and updated.
- 2.2 Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than others. The Code covers all employees under a contract of employment within local government.
- 2.3 This Code supplements, and does not replace, any code or recognised standards of conduct promulgated by any professional body of which an employee is a member.

3 Standards

- 3.1 Local government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide advice to Councillors and fellow employees with impartiality.
- 3.2 Employees will be expected as part of the drive for a quality service to bring to the attention of the appropriate level of management any deficiency in the provision of service.
- 3.3 Employees must be aware of the Council's Whistleblowing Procedure and report any impropriety, breach of procedure, unlawfulness or maladministration through the appropriate channels and if necessary to one of the named officers in the Authority's Whistleblowing Procedure including the Monitoring Officer. The Council's Whistleblowing Policy is kept up to date by Human Resources. Members should refer to the Monitoring Officer for advice on whistleblowing, if necessary.

4 Disclosure of Information

- 4.1 The Council has adopted the principles of open government and seeks to involve the public in the decision making process. The law requires that certain types of information must be available to Members, auditors, Government departments, service users and the public. In certain circumstances, employees may have a legal or professional duty to disclose information to a third party, (for example, in the course of legal proceedings).
- 4.2 The Council will inform employees of the type of information that must be made available, and to whom; the type of information that has voluntarily been made open, and to whom; and the type of information that the Authority does not wish to be disclosed without specific permission.

- 4.3 Employees should be aware of which information within the Council is open and which is not, and act accordingly. Any officer having custody of documents to which right of access applies commits an offence by obstructing that right.
- 4.4 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way.
- 4.5 Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Authority should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

5 Political Neutrality

- 5.1 Employees serve the Authority as a whole. It follows they must serve all Councillors and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected.
- 5.2 Some employees are required to advise political groups. They must do so in ways that do not compromise their political neutrality.
- 5.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.
- 5.4 Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in paragraph 5.1.
- 5.5 Where a Local Authority employee holds a politically restricted post such restrictions are deemed to be incorporated in their contract of employment.

6 Relationships

Councillors

- 6.1 All employees are there to carry out the Council's work. They are responsible to the Council through its senior managers.
- 6.2 The role of some employees is to give advice to Councillors and senior managers. Mutual respect between employees and Councillors is essential to good local Government. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors and should therefore be avoided.

The Local Community

- 6.3 Employees should always remember their responsibilities to the community they serve and ensure courteous, respectful, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Council.

Contractors

- 6.4 All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate Assistant Director. Orders and contracts must be awarded on merit, by fair competition in accordance with Contract Procedure Rules and no special favour should be shown to any businesses and no part of the local community should be discriminated against.
- 6.5 An employee must not seek or receive any gift or personal inducement in connection with the procurement of works, goods or services.
- 6.6 Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors should declare that relationship to the appropriate Head of Service.

7 Appointments and Other Employment Matters

- 7.1 Employees involved in appointments should ensure that these are made on the basis of merit. It is unlawful for an employee to make an appointment that is based on anything other than the ability of the candidate to undertake the duties of the post.
- 7.2 In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her. Candidates for any appointment with the Council must disclose on their application whether they are related to any member of the Council or to a holder of any senior office.
- 7.3 Employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, close personal friend etc.

8 Outside Commitments

- 8.1 Employees graded above Scale 6 have conditions of service that require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the Council's interests, or in any way weaken public confidence in the conduct of the Council's business.
- 8.2 Employees of all grades should not undertake outside work if their official duties overlap in some way with their proposed work, if it causes a conflict of interest, or if it makes use of material to which the employee has access by virtue of his or her position (for example, an architect or planner who draws up plans within the District for an applicant for planning consent.) It is irrelevant whether or not the work is paid.
- 8.3 Employees' off-duty hours are their personal concern but they should not subordinate their duty to private interests to put themselves in a position where duty and private interests conflict; this is not limited to other paid employment and may include issues relating to personal standards of conduct.
- 8.4 The Council will not preclude employees from undertaking additional employment, but any such employment must not, in the view of the Council, conflict with or react

detrimentally to the Council's interests, or in any way weaken public confidence in the conduct of the Council's business. If in doubt seek the view of the Monitoring Officer.

- 8.5 No outside work of any sort should be undertaken in the office, and use of facilities, e.g. telephones, or access to typing facilities for outside work is forbidden. All the resources of the Council including equipment, stationery, etc, are to be used to further the Council's business and are not for personal use.

9 Information Technology and Data Security

- 9.1 Employees must ensure that they follow the Council's security procedures in relation to the use and storage of computers and the proper management of computer held information. Particular care should be taken to observe established procedures when using passwords and when logging on and off, especially when working with confidential records or sensitive material.

10 Personal Interests

- 10.1 Employees must declare to their Assistant Director any financial interests that could conflict with the Council's interests.
- 10.2 Employees must declare to their Assistant Director (in writing), any non-financial interests that they consider could bring about conflict with the Council's interests. This may include membership of outside bodies in a personal capacity. In such cases employees should be mindful not to place themselves in a situation where their involvement or working contribution could compromise their continuing professional duty to the interests of the Council.
- 10.3 On a voluntary basis, employees are encouraged to make declarations of interests by pro forma, based on the same principles as those required of Members, in a register kept for the purpose by Member Services.
- 10.4 When serving on outside bodies as a Council appointee, employees will be expected to represent and promote the Council's interests and policies as the circumstances dictate.

11 Equality Issues

- 11.1 Employees should ensure that all policies agreed by Council relating to equality issues are complied with in addition to the requirements of the law. All members of the local community, customers, job applicants and other employees have a right to be treated with fairness and equity.

12 Separation of Roles During Tendering

- 12.1 The tendering process must be seen to be open and above board. Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Authority.
- 12.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors, and sub-contractors.

- 12.3 Employees who are privy to confidential information on tenders or costs relating to either internal or external contractors should not disclose that information to any unauthorised party or organisation.

13 Corruption

- 13.1 Corruption may include receiving any payment, gift (other than a gift of a nominal value (£25)) hospitality, or any other benefit from any person or organisation who a member of staff deals with in their work, irrespective of what it is in respect of, including tips, and payment for additional 'private work'. It is also irrelevant whether any benefits are directly to an officer or to the officer's family or friends.
- 13.2 Any case of suspected corruption will be fully investigated and any proven cases will be treated as gross misconduct and criminal prosecutions undertaken.

14 Use of Financial Resources

- 14.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner.
- 14.2 They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

15 Hospitality, Gifts and Sponsorship

- 15.1 Employees must decline gifts other than nominal items such as calendars, diaries, etc.
- 15.2 Employees should treat with caution all offers of hospitality wherever any suggestion can arise of improper influence. Particular care is required where a person or body having or seeking business with, or a decision from the Council, offers hospitality, particularly where the offer is to an individual employee. It should only be accepted where it is on a scale appropriate to the circumstances, reasonably incidental to the occasion and where it is apparent no cause could reasonably arise for adverse criticism about accepting it.
- 15.3 Where an outside organisation wishes to sponsor or is seeking to sponsor a local Government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 15.4 Where the Council wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

16 Standard of Dress and Appearance

- 16.1 First impressions count and if a member of staff is inappropriately dressed then at best it presents an obstacle to be overcome in the minds of members of the public. At worst it can create the view that the Council is inefficient. There is therefore a

general expectation that dress will be appropriate to the nature of the duties and responsibilities undertaken by the individual.

- 16.2 The Council values and welcomes the ethnic diversity of its workforce and will take account of ethnic and religious dress requirements with sensitivity.

PROTOCOL ON MEMBER/OFFICER RELATIONS

1 Introduction

- 1.1 Member/officer relations at Rochford are generally good and the production of this protocol should further assist in this matter. The purpose of the protocol is to guide Members and officers of the Council in their relations with one another. Production of this protocol should not affect the vast bulk of business that is successfully conducted between officers and Members. It should simply serve to clarify the boundaries of the relationship should particular circumstances so require. For simplicity, the Joint Chief Executive, Strategic Director and Assistant Directors are referred to collectively as the “leadership team”.
- 1.2 Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues that most commonly arise. It is hoped, however, that the approach adopted will serve as a guide to dealing with other issues.
- 1.3 This protocol is to a large extent no more than a written statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty. The protocol can, of course, be updated to take on board new issues as they arise.
- 1.4 This protocol also seeks to reflect the principles underlying the respective Codes of Conduct that apply to Members and officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of Local Government and they therefore demand very high standards of personal conduct.
- 1.5 Although no longer in force a relevant extract from the National Code of Local Government for Members is reproduced below:-
 23. “Both Councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, their Committees and Sub-Committees.
 24. Mutual respect between Councillors and officers is essential to good Local Government. Close personal familiarity between individual Councillors and officers can damage this relationship and prove embarrassing to other Councillors and officers.
- 1.6 In line with the principle of “mutual respect”, it is important that any dealings between Members and officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.

2 Officer Advice to Party Groups

- 2.1 There is now a statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such

deliberations by party groups but should seek the approval of the Joint Chief Executive and/or Strategic Director before accepting any such request.

- 2.2 The support provided by officers can take many forms ranging from a briefing meeting with a Portfolio Holder, Chairman or Spokesman prior to a Committee meeting to a presentation to a full party group meeting. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 2.3 Certain points must however be clearly understood by all those participating in this type of process, Members and officers alike. In particular:-
 - (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be present at meetings, or parts of meetings, when matters of party business are to be discussed.
 - (b) party group meetings are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings are not Council decisions and it is essential that they are not interpreted or acted upon as such; and
 - (c) similarly, where officers provide information and advice to a party group meeting in relation to a matter of Council business, this does not substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee or other recognised forum of the Council when the matter in question is considered.
- 2.4 Confidential items of business must not be discussed by or with officers at party group meetings. In such circumstances, officers must also exercise caution as regards matters of a sensitive nature when non-elected representatives, not bound by the provisions of the Members' Code of Conduct, are present.
- 2.5 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussions to another party group.
- 2.6 Any particular cases of difficulty or uncertainty with regard to officer advice to party groups should be raised with the Joint Chief Executive and/or Strategic Director who will discuss them with the relevant group leader(s).

3 Support Services to Members and Party Groups

- 3.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must only be used for Council business and never in connection with party political or campaigning activity or for private purposes.

4 Members' Access to Information and to Council Documents

- 4.1 Members have a right to inspect any document in the possession or under the control of the Council that contains material relating to any business to be

transacted at a meeting of the Council. This right does not extend to exempt or confidential information.

- 4.2 Members are free to approach any Council Department to provide them with such information, explanation and advice (about that Department's functions), as they may reasonably need to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Department's activities, to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the senior management.

5 Officer/Chairman Relationships

- 5.1 The Leadership Team are employees of the whole Council with overriding responsibility to the Council. Nevertheless, the Leadership Team will be expected to work closely with the Administration at any particular time.
- 5.2 It is clearly important that there should be a close working relationship between the Executive and the Leadership Team, and the Lead Officer of a Committee or Sub-Committee and the senior officers who report to that Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other Members and other party groups.
- 5.3 Whilst the Leader and any Chairman of a Committee (or Sub-Committee) will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations there will be a duty to submit a report on a particular matter. Similarly, the appropriate member of the Leadership Team will always be fully responsible for the contents of any report submitted in his/her name. Any issues arising between the Executive, a Chairman and a Member of the Leadership Team in this area should be referred to the Joint Chief Executive for resolution in conjunction with the Leader.
- 5.4 In relation to action between meetings, it is important to remember that the Council's arrangements only allow decisions (relating to the discharge of functions) to be taken by the Executive, a Committee, a Sub-Committee or an officer acting under delegated powers in accordance with the Constitution. The law does not allow for such decisions to be taken by a Chairman or any other single Member of a Committee or Sub-Committee. Arrangements currently exist under the Leader and Joint Chief Executive's delegated powers for securing authority to act on any matter that will not admit of delay. This decision-making route will rarely be used but when it is, a report must be prepared and submitted to the next practicable meeting giving an account not only of the action taken, but also of why the procedure was used.
- 5.5 It must be remembered that officers within a department are accountable to their Assistant Director or Joint Chief Executive /Strategic Director and that whilst officers should always seek to assist a Chairman (or indeed any Member) they must not, in doing so, go beyond the bounds of whatever authority they have been given by the Leadership Team.
- 5.6 No individual Member other than the Leader or a person acting on his authority can give an officer an "instruction".

6 Correspondence

- 6.1 Correspondence between an individual Member and an officer should not normally be copied (by that officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be apparent from the original. In other words, a system of “silent copies” should not be employed.
- 6.2 Official letters on behalf of the Council should normally be sent in the name of the appropriate officer, rather than the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent in the name of a Member.

7 Public Meetings Organised by the Council and Involvement of Ward Councillors

- 7.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected must as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members must be notified at the outset of the exercise.
- 7.2 Public meetings arranged by the Council will be presided over by the Chairman of the Council or their nominee. The Leader, or the relevant Executive Member or Committee Chairman, would normally take precedence as first choice substitute.
- 7.3 Whilst respecting confidentiality requirements, officers should ensure that Ward Members are kept informed of matters that are likely to be of interest, particularly where there is likely to be media interest.

8 Clarification of Matters Affecting Individual Members

- 8.1 Any Member requiring clarification of a matter affecting them as an individual should speak to the Joint Chief Executive and/or Monitoring Officer in the first instance or the Chief Finance Officer in relation to a financial issue.

PETITIONS

1 Introduction

- 1.1 The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement within 5 working days of receipt. This acknowledgement will inform and confirm what the Council intends to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition and the organiser agrees.
- 1.2 For practical purposes we will not class it as a petition unless it has reached at least 10 signatures from people who live, work or study in the Rochford District.
- 1.3 In the following paragraphs details are given on how you can go about submitting a petition, the different types of petition and how, in certain cases, special rules apply.
- 1.4 Petitions will be considered by the Assistant Director, Legal & Democratic to ensure they are not vexatious, abusive or otherwise inappropriate.

2 Guidelines for Submitting a Petition

- 2.1 Paper petitions should be sent to:
The Assistant Director,
Legal & Democratic,
Rochford District Council,
Council Offices,
South Street,
Rochford,
Essex,
SS4 1BW

or, in the case of a consultation petition (see paragraph 3.5 below), to the address given in the consultation.

- 2.2 You may also use the Council's online e-petitions facility to create, sign and submit a petition by following the link below or going to the Council's petitions page and then accessing the e-petitions website.
- 2.3 It is advised that Councillors should not act as the petitioner for reasons of bias and predetermination. If a Councillor wishes to petition the Council then they will not be allowed to participate on the debate or vote on the matter.
- 2.4 [Petitions](#) can be presented to ordinary meetings of the Council. Dates and times can be found on the Council's website. If you would like to present your petition to the Council, or someone else to present it on your behalf, please contact the Member Services Team at the Council (contact details are given at the end of this document)

at least 10 working days before the meeting and they will talk you through the process and help with any questions.

2.5 A petition must include:-

- a clear and concise statement covering the subject of the petition and a statement of what action the petitioners wish the Council to take.
- the name and address and signature of any person supporting the petition.

2.6 Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the website.

2.7 In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.

3 Types of Petition

3.1 There are different types of petition as set out below. How your petition is dealt with depends on which type you submit.

Ordinary Petitions

3.2 These are any petitions not included in the types below. Please note that a petition which raises issues of possible Councillor misconduct will be dealt with under separate standards procedures, rather than under the petitions scheme.

3.3 Similarly, a petition that makes a complaint about the conduct of a Council officer may need to be dealt with under the Council's complaints procedure.

3.4 We would let you know how we intend to proceed.

Consultation Petitions

3.5 These are petitions in response to an invitation from the Council for comments as part of a consultation on a particular matter. For example, on a planning or licensing application or a proposed policy or strategy affecting a community. A petition on such a matter will be reported to the meeting, person or body with responsibility for taking the decision.

Governance Petitions

3.6 There are certain matters where an Act of Parliament requires the Council to consider a petition from local electors. For example, a petition calling for a referendum on having a directly elected mayor or asking for the creation of a parish or community council in part of the Council's area. This petitions scheme does not

apply to such petitions.

- 3.7 Advice about these petitions should be sought from the Member Services Team (contact details are given at the end of this document).

Petitions for Debate

- 3.8 In addition to a right for a petition to be presented directly at a Council meeting (see paragraph 2.3), a petition will be debated at a Council meeting if it contains 1500 or more signatures.
- 3.9 If a petition contains at least 750 signatures but less than 1500 it will be debated, at a public meeting of the Council's Overview & Scrutiny Committee*.
- 3.10 More information about petitions for debate at Council meetings is given in section 6 below.

(*The Overview & Scrutiny Committee is a Committee of Councillors responsible for reviewing and scrutinising the work of the Council and holding decision making and decision makers to account.)

4 What will the Council do when it receives a petition?

- 4.1 An acknowledgement will be sent to the petition organiser within 5 working days of receiving the petition. The acknowledgement will advise on what the Council plans to do with the petition and when the organiser can expect to hear from the Council again. It will also be published on the Council's website.
- 4.2 If the Council can do what the petition asks for, the acknowledgement will confirm that the action requested has been taken and the petition will be closed. If the petition has enough signatures to trigger a debate at a Council meeting, or a senior officer giving evidence, then the acknowledgment will confirm this and advise when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps the Council plan to take.
- 4.3 To ensure that people know what the Council is doing in response to petitions received, the details of all petitions submitted will be published on our website, except in cases where this would be inappropriate. When you sign an e-petition you can elect to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed, unless you choose to receive other emails from us.

5 How will the Council respond to a petition?

- 5.1 The 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 meeting of the Council or other council body such as the Executive (cabinet), or the Overview & Scrutiny Committee
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- calling a referendum
- writing to the petition organiser setting out the Council's views about the request in the petition.

5.2 In addition to these steps, the Council will consider what specific actions are available to address the issues highlighted in the petition.

5.3 If a petition is about something over which the Council has no direct control (for example the railway or a hospital) the Council will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and, where possible, will work with appropriate partners to respond to your petition. If we are not able to do this for any reason (such as if what the petition calls for conflicts with Council policy) we will set out the reasons for this to you.

5.4 If the petition is about something that a different council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other council, but could involve other steps. In any event we will always notify you of the action we have taken.

6 Debates at Council or Overview & Scrutiny Committee Meetings

6.1 A petition containing 1500 or more signatures will be debated at a Council meeting. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser or their representative will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of 15 minutes. The petition organiser or their representative will be given the opportunity to sum up at the end of the debate for a maximum of 1 minute if they so wish.

6.2 The Council will decide how to respond to the petition at the meeting. It may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter. For example, by a relevant Committee.

6.3 Where the issue is one on which the Council's Executive (cabinet) is required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of the decision which will also be published on the Council's website.

- 6.4 If your petition contains at least 750 signatures but less than 1500 it will be debated at a public meeting of the Council's Overview & Scrutiny Committee. The Committee may decide to call a relevant officer or Councillor to attend the meeting. Committee members will ask the questions at the meeting, but you will be able to suggest questions to the Chairman of the Committee by contacting the Member Services Team up to three working days before the meeting.
- 6.5 The Overview & Scrutiny Committee will make recommendations to Council or the Council's Executive on how to respond to the petition.

7 E-petitions

- 7.1 E-petitions can be created and submitted through the website. E-petitions must follow the same guidelines as other petitions set out above. The petition organiser will need to provide their name, postal address and email address. The organiser will also need to decide how long the petition should be open for signatures. Most petitions run for six months, but a shorter or longer timeframe can be chosen, up to a maximum of 12 months.
- 7.2 When you create an e-petition, it will take five working days before it is published online.
- 7.3 If we feel we cannot publish your petition for some reason, we will contact you within the five working days to explain. You will be able to consider changing and resubmitting the petition if you wish. If this is not done within 5 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the Council's website.
- 7.4 When an e-petition has closed for signature, it will automatically be submitted to the Member Services Team. In the same way as a paper petition the organiser will receive an acknowledgement within 5 working days. If you would like to present your e-petition to a meeting of the Council, please contact the Member Services Team within 5 working days of receipt of the acknowledgement.
- 7.5 A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on this website.

8 How do I 'sign' an e-petition?

- 8.1 You can see all the e-petitions currently available for signature by following [this link](#) to our petitions page and then accessing the e-petitions website.
- 8.2 When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

9 What can I do if I feel my petition has not been dealt with properly?

- 9.1 If it is felt that the petition has not been dealt with properly, the petition organiser has the right to request that the Council's Overview & Scrutiny Committee review the steps that the Council has taken in response to the petition. The petition organiser must give a short explanation of the reasons why the Council's response is not considered to be adequate.
- 9.2 The Overview & Scrutiny Committee will endeavour to consider the request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee determine the petition has not been dealt with adequately, it may use any of its powers to deal with the matter. These include commencing an investigation, making recommendations to the Council or the Executive and arranging for the matter to be considered at a meeting of the Full Council.
- 9.3 Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results will also be published on the Council's website.

Contact Details:-

Member Services
Rochford District Council,
Council Offices,
South Street,
Rochford,
Essex,
SS4 1BW

Email – memberservices@rochford.gov.uk

Phone – 01702 318141

PART 6

MEMBERS' ALLOWANCES SCHEME

MEMBERS' ALLOWANCES

The scheme of Members' Allowances with effect from 14 May 2019 is set out below:-

Basic Allowance - £5,000 per annum

Leader of the Council – 200% of Basic Allowance (£10,000)

Deputy Leader of the Council – 150% of Basic Allowance (£7,500)

Opposition Group Leader – 50% of Basic Allowance (£2,500)

Chairman of the Council – 100% of Basic Allowance (£5,000)

Vice-Chairman of the Council – 50% of Basic Allowance (£2,500)

Executive Portfolio Holder – 100% of Basic Allowance (£5,000)

Chairman of Overview & Scrutiny Committee – 70% of Basic

Allowance (£3,500) Other Committee Chairman – 50% of Basic

Allowance (£2,500) Committee Vice-Chairman – 10% of Basic

Allowance (£500)

Sub-Committee Chairman – 10% of Basic Allowance (£500)

(Payable only if the Chairman is not the Executive Member with overall responsibility for the area of work)

Independent Persons and Parish Members of Standards Committee – 10% of Basic Allowance (£500)

Co-optees Allowance - 10% of Basic Allowance (£500)

Childcare and Carer's Allowances

Childcare allowance to be set at £15.00 per hour maximum, subject to the following conditions:-

- Dependent children must be under the age of 16 and living at home with the Member and claims must be made for actual expenditure incurred.
- Allowance is claimed on production of a signed statement which states care has been provided by a babysitter.
- Any rate of the allowance above £10.00 per hour will only be paid on the basis of a formal receipt from a qualified childcare professional.

Carer's allowance to be set at £15.00 per hour maximum, subject to the following conditions:-

- Elderly or dependent relatives must be living at the same address as the Member and claims must be for actual expenditure incurred.
- Production of receipt from a professional carer must be supplied.

Travelling Expenses

Claims for travelling expenses must be based on one of the following:-

- Bus fare or second class railway train fare.
- A mileage allowance for use of the Member's vehicle, together with an additional allowance for passengers.
 - A private car allowance of 45p per mile.
 - A passenger allowance of 5p per mile.
 - A motorcycle allowance of 24p per mile.
 - A bicycle allowance of 20p per mile.

In certain circumstances, the amount of the actual fare of a taxi cab. This will only be paid in cases where use of public transport is not available or where excessive travelling time would be involved.

Subsistence Allowance

When attendance at a Conference, course, etc. is as a representative of the Council and involves the purchase of meals and/or overnight accommodation away from home, subsistence allowance is payable. This allowance is intended to cover expenses incurred on meals and hotel accommodation during absence from home and can only be paid when the approved duty is as a representative of the Council.

Current rates of allowance are detailed below:-

1. The rates shall not exceed:-
 - (a) In the cases of an absence, not involving an absence overnight from the usual place of residence:-
 - i Breakfast allowance (more than 4 hours from normal place of residence – before 11am) £5.00

- | | | |
|-----|---|--------|
| ii | Lunch allowance (more than 4 hours away from normal place of residence – including lunchtime between 12 noon and 2pm) | £10.00 |
| iii | Evening meal allowance (more than 4 hours away from normal place of residence, ending after 7 pm) | £20.00 |

For overnight stays the actual cost of hotel accommodation will be claimable, subject to a maximum of £120 per night. This sum is increased to £180 per night if staying in Central London.

2. Central London means the City of London and the London Boroughs of Camden, Greenwich, Hackney, Hammersmith, Fulham, Islington, Kensington and Chelsea, Lambeth, Lewisham, Southwark, Tower Hamlets, Wandsworth and Westminster.
3. Any rate determined under paragraph 1 above shall be deemed to cover a continuous period of absence of 24 hours.
4. The rates specified in paragraph 1 above shall be reduced by an appropriate amount in respect of any meal provided free of charge by an authority or body in respect of the meal or the period to which the allowance relates.

NOTE: Allowances above will be amended as and when rates payable to officers are amended to keep officer and Member rates identical.

Meals on Trains

When main meals (ie breakfast, lunch or dinner) are taken on trains during a period for which there is entitlement to a day subsistence allowance, the reasonable cost of the meals (including VAT) may be reimbursed in full, within the limits specified below.

In such circumstances, reimbursement for the reasonable cost of a meal should replace the entitlement to the day subsistence allowance for the appropriate meal period.

Limitations on reimbursement are:-

- (a) for breakfast, an absence of more than 4 hours before 11.00 am.
- (b) for lunch, an absence of more than 4 hours, including between 12 noon and 2.00 pm.
- (c) for dinner, an absence of more than 4 hours, ending after 7.00 pm

Corporate Leadership Team | Rochford Council