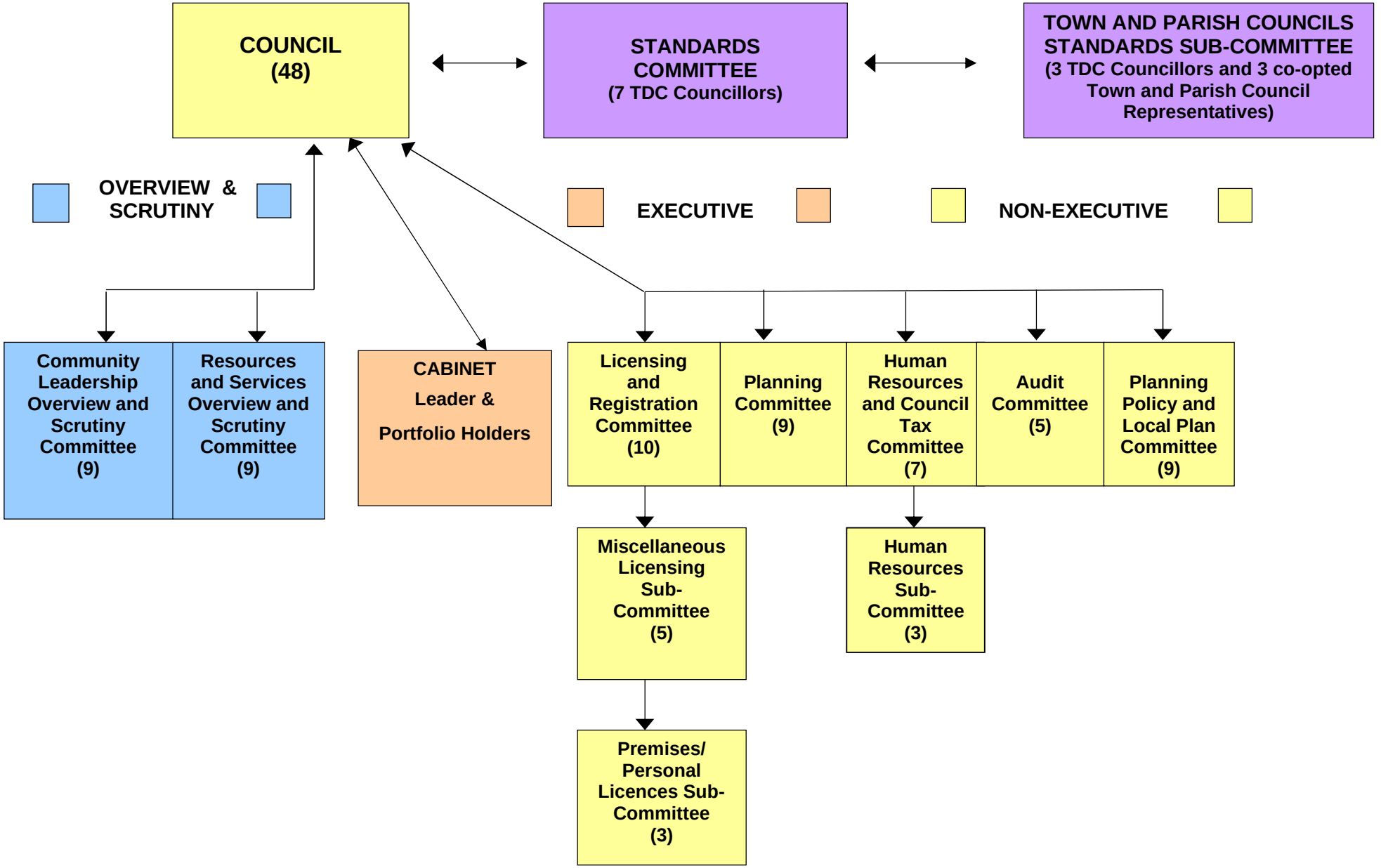
CONSTITUTION

OF

TENDRING

DISTRICT COUNCIL

CABINET AND COMMITTEE STRUCTURE



THE CONSTITUTION

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Strategic Management Team Structure

SUMMARY AND EXPLANATION

The Council's Constitution

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

What's in the Constitution?

The Constitution is made up of seven major parts as follows:

Part 1 The Summary and Explanation

Part 2 The Articles of the Constitution

Part 3 The Delegated Powers and Schedules of Responsibility for Functions

Part 4 Council Procedure Rules

Part 5 Rules of Procedure

Part 6 Codes and Protocols

Part 7 Members' Allowances Scheme

Part 2 The Articles of the Constitution

Article 1 of the Constitution commits the Council to work towards its vision for Tendring as set out in the Council's Corporate Plan. Articles 2-16 explains the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Full Council (Article 4)
- Chairing the Council (Article 5)
- Overview and Scrutiny Committees (Article 6)
- The Cabinet (also referred to as the Executive) (Article 7)
- Committees (Article 8)

- Standards Committee and the Town and Parish Councils' Standards Sub-Committee (Article 9)
- Area Committees and Forums including Community Consultation and Participation (Article 10)
- Joint Arrangements (Article 11)
- Officers (Article 12)
- Decision Making (Article 13)
- Finance, Contracts and Legal Matters (Article 14)
- Review and Revision of the Constitution (Article 15)
- Suspension, Interpretation and Publication of the Constitution (Article 16)

Part 3 Delegated Powers

This part of the Constitution sets out the key delegated powers to each element of the Council's decision making structure.

Parts 4 & 5 Procedure Rules for Operation of the Constitution

Set out in these parts of the Constitution are the detailed rules and operating procedures that relate to each of the key sectors of the Constitution namely:

Council Procedure Rules (Part 4)
Rules of Procedure (Part 5)

Part 6 Codes and Protocols

This includes:

- The Members' Code of Conduct
- Complaints Procedure
- Monitoring Officer Protocol
- Independent Person Protocol
- Protocol on Members/Officer Relations

- Members' Planning Code & Protocol

Part 7 Members' Allowances Scheme

The Members' Allowances Scheme is approved by the Council following consideration of the recommendations of the Independent Remuneration Panel on Allowances.

Part 8 Management Structure

How decisions are made

Decisions are taken on a day-to-day basis by the Cabinet, which is made up of the Leader of the Council and the Portfolio Holders appointed by the Leader. Key decisions to be made are published in so far as they can be anticipated. Meetings of Cabinet are generally open to the public to attend, except where personal or confidential matters are being discussed. The Cabinet has to make decisions in accordance with the Council's overall policies and budget. If it wishes to make a decision that is outside the Budget or Policy Framework, this must be referred to the Council as a whole to decide.

Overview and Scrutiny

The Council has Overview and Scrutiny Committees that support the work of the Cabinet and the Council as a whole. These Committees may hold public inquiries into matters of local concern leading to reports and recommendations to advise the Cabinet and the Council as a whole on policies, budget/resources and service delivery. The Overview and Scrutiny Committees also monitor the decisions of the Cabinet and a decision that has been made by the Cabinet but not yet implemented can be "called-in". This enables the decision to be further considered. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

The Council's Staff

The Council's staff (called "officers") 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.

Citizens' Rights

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

Where members of the public use specific Council services, for example as a Council Tenant, they have additional rights which are not covered in this Constitution.

The Council welcomes participation by its citizens in its work.

ARTICLES

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, including all its schedules and appendices, is the Constitution of the Tendring District Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1 Provide key elements of the Council's overall governance arrangements;

2 Enable decisions to be taken efficiently and effectively;

3 Create an effective means of holding decision-makers to public account;

4 Enable the Council to provide clear leadership to the community, working in partnership with the local community, businesses and other organisations for the long term well-being of the District;

5 Support the involvement of the local community in the process of local authority decision making;

6 Ensure that no one will review, or scrutinise, a decision in which they were directly involved;

7 Help Councillors represent their residents more effectively;

8 Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for their decisions; and

9 Provide the framework and structure in which cost effective quality services to the community are delivered.

1.04 Interpretation and Review of the Constitution

Any interpretation of the Constitution must have regard to the purposes stated above.

Where the context allows, words in the Constitution indicating one gender include both genders. Unless otherwise indicated, where a "day" is referred to, this will mean a "working day" and will not include weekends or Bank Holidays.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

ARTICLE 2 – MEMBERS OF THE COUNCIL

2.01 Composition and Eligibility

(a) **Composition**

The Council comprises 48 members, otherwise called Councillors. One or more Councillors will be elected by the voters in Wards in accordance with a scheme drawn up by the Local Government Boundary Commission for England, 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

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular elections.

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) Represent their communities and bring their views into the Council's decision-making process, i.e. become an advocate for their communities;

(iii) Effectively represent the interests of their ward and of individual residents;

(iv) Respond to residents' enquiries and representations, fairly and impartially and assist in the resolution of concerns and grievances;

(v) Be involved in decision-making for the people of the District as a whole;

(vi) Be available to represent the Council on other bodies; and

(vii) Contribute to the governance and effective management of the Council's business at meetings of the Council, Cabinet and other Committees and Sub-Committees, maintaining 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) Members are entitled to receive information from Officers in a timely manner to reasonable requests for the purposes of undertaking their role as Ward Councillors, decision makers and performing functions, such as overview and scrutiny (**this is referred to as the common law 'need to know' principle**). Under common law principles councillors have the right to access information held by their authority where it is reasonably necessary to enable the member to properly perform their duties as a councillor.

However, if the member's motive for seeing documents is indirect, improper or ulterior, this may be raised as a bar to their entitlement. Members are not, therefore, allowed to go off on 'fishing expeditions' through their council's documents. If a councillor is a member of a particular committee or sub-committee then they have the right to inspect documents relating to the business of that committee or sub-committee. If not a member of that committee or sub-committee, the councillor would have to show good cause why sight of them is necessary to perform their duties (See R V Clerk to Lancashire Police Committee ex parte Hook [1980] Q.B. 603).

(iii) 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.

(iv) For these purposes "confidential" and "exempt" information is defined in the Access to Information Rules in Part 5 of this Constitution.

(v) It is a duty of Councillors to undertake all relevant training and to keep themselves up-to-date on such training.

2.04 Conduct

Councillors will at all times observe the Members' Code of Conduct and protocols set out in Part 6 of this Constitution.

Councillors are also expected to comply with the requirements of any risk assessments issued by the Council in performance of their functions

2.05 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 7 of this Constitution.

2.06 Members Training/Development Records

The training/development records of Members will be centrally held by the Council's Monitoring Officer through the Leadership Support Team. Members' training/development will be organised and facilitated through that Team.

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.01 Citizens' Rights

The rights to information are explained in more detail in the Access to Information Rules in Part 5 of this Constitution. Other rights include:

(a) **Voting and petitions:**

People on the Electoral Register for the District have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

(b) **Information**

The public have a right to:

(i) Attend meetings of the Council and its Committees and Sub-Committees except where confidential or exempt information is likely to be disclosed (Committees for this purpose do not include Working Parties/Groups and/or Task and Finish Review Groups);

(ii) Attend meetings of the Cabinet when key decisions are being considered;

(iii) Find out from the Council's website what key decisions will be taken by Cabinet and when;

(iv) See reports and background papers, and any records of decisions made by the Council and the Cabinet; and

(v) In accordance with the published timescales inspect the Council's accounts and make their views known to the external auditor.

(c) **Participation**

The public have a right to participate by submitting written questions to Full Council meetings and contribute to investigations by the Overview and Scrutiny Committees. The public can also participate at meetings of the Planning Policy & Local Plan Committee and the Planning Committee in accordance with the relevant Public Speaking Schemes. The public can also submit a petition to the Council under the Council's adopted Scheme for dealing with Petitions.

(d) **Complaints**

The public have a right to complain to:

(i) A Ward Councillor;

(ii) The Council itself under its Complaints Scheme, details of which are available on the Council's website;

(iii) The Local Government and Social Care Ombudsman, after using the Council's own Complaints Scheme;

(iv) The Housing Ombudsman;

(v) The Monitoring Officer about a breach of the Council's Code of Conduct (which sets out the standards of behaviour expected of a Councillor and is contained within Part 6 of this Constitution). The Complaints Procedure is available on the Council's website.

3.02 Citizens' Responsibilities

At meetings of the Council, its Committees or Cabinet, members of the public must treat Councillors and Officers with respect and courtesy and must not wilfully harm the property of the Council, Councillors or Officers.

ARTICLE 4 – THE FULL COUNCIL

4.01 Meanings

(a) **Policy Framework**

The policy framework means those statutory policies and plans which must be approved or adopted by the full Council and are, for the time being, the following:

- Council's Corporate Plan;
- Crime and Disorder Reduction Strategy (Sections 5 and 6 of the Crime and Disorder Act 1998);
- Plans and strategies which together comprise the Local Development Plan Documents (Section 15 of the Planning and Compulsory Purchase Act 2004);
- The plan and strategy which comprise the Housing Investment Programme (HRA Business Plan and Housing Strategy);
- Statement of Licensing Policy (Licensing Act 2003);
- Statement of Licensing Policy (Gambling Act 2005) (on the recommendation of the Cabinet who will have considered a referral from the Licensing and Registration Committee);

Other plans and strategies which the Council may decide from time to time are to be adopted by the Council as a matter of local choice as part of the policy framework, including but not limited to:

- Procurement Strategy (including the Social Value Policy)
- Climate Change Action Plan

(b) **Budget:**

The budget is a statement identifying the allocation of financial resources (as provided for in the Local Government Finance Act 1992), including capital resources, to different services and projects, proposed taxation levels, to contingency provisions ('reserves and balances') and any plan or strategy for the control of the local authority's borrowing or capital expenditure. This does not include the Housing Revenue Accounts Budgets or rent fixing.

The term budget also does not include the determination of the Council's Capital Strategy. The Annual Budget setting process involves the determination of such allocations, decisions and prudential indicators and setting of the Council Tax.

(c) **Housing Land Transfer**

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of urban disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.02 Functions of the Full Council

Only the Council will exercise the following functions:

1. Approving or adopting any plans and strategies that form the Council's Policy Framework;

2. Approving the overall budget as set out in 4.01 (b) above including approving and setting the Council Tax;

3. The making of any application to the Secretary of State in respect of any Housing Land Transfer as set out in 4.01 (c) above;

4. Adopting and changing the Constitution unless specifically delegated to the Monitoring Officer;

5. The adoption or approval of a plan or strategy, other than a plan or strategy for the control of the authority's borrowing or capital expenditure or forming part of the Policy Framework, where the Council determines that the decision whether the plan or strategy should be adopted or approved should be taken by them;

6. Approving for the purposes of its submission to the Secretary of State for independent examination under Section 20 of the Planning and Compulsory Purchase Act 2004, of a development plan document;

7. Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 5 of this Constitution, making executive decisions about any matter where the decision-maker is minded to make a decision contrary to the policy framework, or contrary to or not wholly in accordance with, the budget

8. The election of the Leader of the Council or the passing of a resolution to remove the Leader of the Council;

9. Agreeing and/or amending the terms of reference for Committees, Sub-Committees etc, deciding on their composition and making appointments to them including their Chairmen and Vice-Chairmen;

10. The appointment of any representatives to outside bodies, including joint committees, unless the appointment is a Cabinet function or the function has been delegated by the Council;

11. Adopting a Members' Allowances Scheme;

12. Adopting and amending the Authority's Members' Code of Conduct;

13. The appointment of Independent Persons on the recommendation of the Monitoring Officer as to who should be appointed;

14. The appointment of the Independent Remuneration Panel on the recommendation of the Chief Executive as to who should be appointed;

15. All functions of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, which the Council has retained for discharge by itself as set out in Part 3, Schedule 2 of the Council's Constitution;

16. All local choice functions of Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, which the Council has retained for discharge by itself as set out in Part 3, Schedule 1 of the Council's Constitution;

17. All other matters which by law must be reserved to the Council.

4.03 Council Meetings

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

4.04 Responsibility of Functions

The Council will maintain the tables and appendices in Part 3 of the Constitution setting out the responsibilities of the Council's functions which are not the responsibility of Cabinet as prescribed in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended.

4.05 Conflict Resolution in Setting the Budget and Policy Framework

The process of resolving conflict in the setting of the budget and policy framework is set out in the Budget and Policy Framework Procedure Rules in Part 5 of the Constitution.

ARTICLE 5 – CHAIRING THE COUNCIL AND COMMITTEES

5.01 Role and Function of the Chairman of the Council

The Chairman and Vice-Chairman will be elected by the Council annually.

The Chairman and the Vice-Chairman must not be Members of the Cabinet.

The Chairman or, in their absence, the Vice-Chairman will have the following roles and responsibilities:

1. To uphold and promote the purposes of the Constitution, and to rule on the interpretation and application of the Constitution as and when necessary at meetings;

2. To preside over meetings of the Council 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 debate of matters of concern to the local community and the place at which Members who are not on the Cabinet are able to generally hold the Cabinet to account;

4. To promote public involvement in the Council's activities;

5. To attend such civic and ceremonial functions as the Council and they determine appropriate;

6. To be the custodian of the democratic process of the Council;

7. To call extraordinary meetings of the Council under Schedule 12 Part I, Section 3 of the Local Government Act 1972.

5.02 Role and Function of the Chairman of a Committee

The Chairman and Vice-Chairman of a Committee will be appointed by the Council annually.

The Chairman, or in their absence, the Vice-Chairman will have the following roles and responsibilities:

1. To uphold and promote the purposes of the Constitution, and to rule on the interpretation and application of the Constitution as and when necessary at meetings;

2. To preside over meetings of their Committee 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 Committee meeting is a forum for debate of matters of concern to the local community;

4. To call special meetings of their Committee under Council Procedure Rule 35.2.

5.03 Addressing the Chairman

The relevant Councillor at the beginning of their term of office as Chairman of the Council or as a Chairman of a Committee will announce how they wish to be addressed in meetings, using one or more of the following preferred terms;

Chairman;

Madam Chairman;

Chair; or

Chairperson.

5.04 Training of the Chairman of the Council or Committees

Once elected/appointed as the Chairman of the Council or of an individual Committee, the relevant Councillor will be expected to attend training to enable them to fulfil their role and its responsibilities as set out in points 2 and 3 in paragraphs 5.01 and 5.02 above.

The Vice-Chairman of the Council and the Vice-Chairmen of Committees will also be expected to attend such training.

ARTICLE 6 – OVERVIEW AND SCRUTINY FUNCTION

6.01 General Role and Functions:

The Council will appoint two Overview and Scrutiny Committees, whose terms of reference are as set out below. Within its functions, each Overview and Scrutiny Committee will:

1. Review or scrutinise executive decisions made by the Cabinet (including those delegated to Portfolio Holders and Officers) or are due to be made by the Cabinet or a Portfolio Holder including performance in relation to individual decisions over a period of time;

2. Act as a consultee on policy development and review of policies;

3. Submit to Full Council for approval an annual overview and scrutiny work programme;

4. Make reports or recommendations to the Cabinet or the Council as appropriate, with respect to the discharge of any Council function or on any matter affecting the authority's area or its inhabitants.

5. Prepare and present an annual performance report to Full Council covering the outcomes of the overview and scrutiny functions by each committee;

6. Deal with any Call-in of Cabinet decisions (including those delegated to Portfolio Holders and Officers) in accordance with the Overview & Scrutiny Procedure Rules;

7. Consider requests for scrutiny reviews under the Councillor Call for Action process and petitions as referred under the Petitions Scheme and Council Procedure Rules.

In undertaking the General Role the following principles apply:

(i) The focused co-ordination of all overview and scrutiny functions on behalf of the Council including the performance reporting on the Corporate Plan, Priorities and Projects;

(ii) Appoint, where appropriate, and in accordance with its agreed work programme, a group to undertake researched and evidenced reviews on a specific topic, on a task and finish basis. The terms of reference of any Task and Finish group must be agreed by the relevant Overview and Scrutiny Committee prior to its commencement; and

(iii) Consideration of the Council's priorities and resources when making researched and evidenced recommendations and referral decisions as an outcome of the scrutiny and prioritising those referrals in a timely manner.

ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES

6.02 Terms of Reference:

The terms of reference for each Overview and Scrutiny Committee are set out below:

(i) Community Leadership Overview and Scrutiny Committee

Meetings of the Committee will be held in accordance with the programme of meetings normally approved at the Annual Meeting of the Council. In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chairman of the Committee, or by the Head of Democratic Services & Elections. If considered necessary or appropriate. Meetings of Task and Finish Groups can be called as required, following the terms of reference being agreed by the Committee.

(A) To perform the role of Overview and Scrutiny and its functions in relation to

- Community Leadership developing the external focus of overview and scrutiny on "district-wide" issues' (and where appropriate sub regional, regional and national issues), in particular through collaborative work with local partner authorities, providers, stakeholders and members of the public.
- Approval of discrete researched and evidenced reviews on the effectiveness of partnership operating in the area with particular focus on:
    - Community Safety
    - Health and Well-being
    - Economy, Skills and Educational Attainment

- Community engagement, development and empowerment
- Economic Development, Regeneration and Freeport East
- Leisure and Tourism (except matters relating to budgets)
- Planning & Building Control and Strategic Planning (including the Local Plan)
- Emergency Planning
- To scrutinize/review the outcomes and implications for the Council of its financial support to community organisations and also from its receipt and use of funds received from local partner organisations

(B) The Community Leadership Overview & Scrutiny Committee will also act as the Council's designated "crime and disorder committee" for the purposes of Section 19 of the Police and Justice Act 2006 and will have the power –

(a) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities[*] of their crime and disorder function;

(b) to make reports or recommendations to the local authority with respect to the discharge of those functions.

** "The responsible authorities" means the bodies and persons who are responsible authorities within the meaning given by section 5 of the Crime and Disorder Act 1998 (c.37) (authorities responsible for crime and disorder strategies) in relation to the local authority's area.*

In fulfilling that function the Community Leadership Overview & Scrutiny Committee will have the power (whether by virtue of section 9F(2) or 21(2) of the Local Government Act 2000 or regulations made under section 9JA(2) or 32(3) of that Act or otherwise) to make a report or recommendation to the local authority with respect to any matter which is a local crime and disorder matter in relation to a member of the authority.

The crime and disorder committee shall meet to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder function as the committee considers appropriate but no less than once in every twelve month period.

(C) The Community Leadership Overview & Scrutiny Committee, in accordance with Section 9F (d) and (e) of the Local Government Act 2000 (as amended) will also perform the functions relating to community governance reviews as provided for by Part 4 of the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act") where those functions have been delegated to the Committee by full Council (as set out in Part 3 Schedule 2 Responsibility for Council (Non-Executive) Functions).

In performing its delegated functions, the Committee is required, by section 100(4) of the 2007 Act, to have regard to the guidance which is issued by the Secretary of State, under section 100(1) and (3), and the LGBCE under section 100(2) of the same Act.

(ii) Resources and Services Overview and Scrutiny Committee

- The Chairman and the Vice-Chairman of the Committee will normally be Members of a political group that is not represented on the Cabinet. Meetings of the Committee will be held in accordance with the programme of meetings approved at the Annual Meeting of the Council. In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chairman of the Committee, or by the Assistant Director Corporate Policy and Support, if considered necessary or appropriate. Meetings of Task and Finish Groups can be called as required, following the terms of reference being agreed by the Committee.

- To perform the role of Overview and Scrutiny and its functions in relation to the effective use of the Council's resources including approval of discrete researched and evidenced reviews on the effectiveness of:

  Financial Forecast Budget setting and monitoring (including General Fund & Housing Revenue Account but excluding those budgetary matters delegated to the Community Leadership Overview and Scrutiny Committee)

  Colchester/Tendring Borders Garden Community
  Housing Strategy and Homeless Service
  Service Delivery and Performance (where not delegated to the Community Leadership Overview and Scrutiny Committee)
  Procurement and Contract Management
  Transformation and Digital Strategies
  Customer Service and Standards

6.03 Proceedings of the Overview and Scrutiny Committees:

The Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 5 of this Constitution.

ARTICLE 7 – THE CABINET (ALSO REFERRED TO AS THE EXECUTIVE)

7.01 Role and Responsibilities:

The Cabinet will carry out all of the local authority's functions, known as Executive 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 Cabinet will consist of the Leader of the Council together with other Councillors appointed to the Cabinet by the Leader. The Leader will determine the number of Councillors who may be appointed to the Cabinet subject to the statutory minimum requirement of two Councillors appointed to the Cabinet by the Leader and the statutory maximum number of ten members of the Cabinet.

7.03 Leader of the Council:

The Leader of the Council will be a Councillor elected to the position by the full Council. The election of the Leader will normally be carried out at the Annual Meeting of the Council following the District Council Elections. The Leader will hold office until the annual meeting of the Council following the next District Council elections or until:-

(a) They resign from the office (only upon disqualification or resignation in accordance with Section 91B of the Local Government Act 2000); or

(b) They cease to be a Councillor only; or

(c) The Council passes a resolution removing the Leader from office at an earlier date. If the Council so passes a resolution to remove the Leader, a new Leader is to be elected at the meeting at which the Leader is removed from office or at a subsequent meeting.

Upon expiry of the fixed term the Leader will be eligible for re-election for subsequent fixed terms.

Upon the occurrence of a vacancy in the office of the Leader, the Council shall fill the vacancy at the next ordinary meeting of the Council. The person appointed to fill the vacancy shall hold office for the remainder of the original term subject to earlier termination as provided for above.

In the interim period between the vacancy in the office of the Leader and the next ordinary meeting of the Council, the Deputy Leader will act as Leader on an interim basis.

7.04 Deputy Leader of the Council

The Leader of the Council will appoint one of the members of the Cabinet to be his deputy. The Deputy Leader of the Council, unless he resigns as Deputy Leader or ceases to be a member of the authority, will hold office until the end of the term of office of the Leader of the Council. However, the Leader may, if he thinks fit, remove the Deputy Leader from office.

Where a vacancy occurs in the office of the Deputy Leader the Leader will appoint another person in his place.

If for any reason the Leader is permanently unable to act or the office of Leader is vacant, the Deputy Leader will act temporarily in his place until the next formal ordinary meeting of the Council when a new Leader will be elected.

If the Deputy Leader is also unable to act or the office is vacant the Cabinet will act in the Leader's place or will arrange for a member of the Cabinet to act in his place.

7.05 Other Cabinet Members (also known as Portfolio Holders)

Other Cabinet members shall hold office until:

(a) they resign from office; or

(b) they are no longer Councillors; or

(c) they are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

7.06 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out below at 7.08.

7.07 Responsibility for Executive Functions

The arrangements for the discharge of Executive Functions are contained in Part 3 of the Constitution.

The Executive functions may be discharged by:

(i) the Cabinet as a whole;
(ii) a Committee of the Cabinet, where appointed by the Leader;
(iii) an individual member of the Cabinet;
(iv) an officer;
(v) an area committee;

(vii) joint arrangements; or
(viii) another local authority.

Part 3 of the Constitution will be maintained and kept up to date with the agreement of the Leader of the Council, setting out which Members of Cabinet, Committees of the Cabinet, Officers or joint arrangements are responsible for the exercise of particular Executive Functions.

7.08 Cabinet Procedure Rules

1. MEETINGS

1.1 Cabinet Meetings

The Cabinet will meet at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices (the Town Hall) or another location to be agreed by the Leader.

1.2 Meetings of the Cabinet

Meetings of the Cabinet and their committees must be held in public in accordance with the Access to Information Procedure Rules except where confidential or exempt information is to be discussed.

In accordance with the approved Protocol for such matters, the Council will make an audio and/or audio-visual live stream and recording of meetings of Cabinet and their Committees, which will be made available on the Council's website for a period of at least one year from the date of the relevant meeting.

1.3 Quorum

The quorum for a meeting of the Cabinet shall be three including the Leader or in his absence the Deputy Leader.

1.4 Chairmanship

The Leader (or in his absence the Deputy Leader) will preside at any meeting of the Cabinet at which he is present.

1.5 Who may Attend?

(i) Subject to the Access to Information Rules and the provisions of the Members' Code of Conduct, any Councillor may attend meetings of the Cabinet. They may not speak without the consent of the Leader, or in any case vote.

(ii) The Leader or Deputy Leader of any political group may, as of right, attend meetings of the Cabinet and participate fully in the discussion on all agenda items, but cannot vote. If requested by the Leader or Deputy Leader of a group to do so, the minutes of the meeting of Cabinet on a particular matter will record their Group's opposition to all, or part, of a decision.

(iii) Meetings of the Cabinet shall have in attendance the Chief Executive, the Chief Financial Officer (or their Deputy), the Monitoring Officer (or their Deputy) and other relevant Corporate Directors or Assistant Directors in the light of items to be discussed, or their nominated representatives, at the discretion of the Chief Executive.

(iv) The Chief Executive, Chief Financial Officer and Monitoring Officer have the right to attend, speak on an item of business and present a report to discharge their statutory and constitutional duties whenever necessary.

(v) Where a Member has submitted a Motion to Council under Council Procedure Rule 12.2 and that motion has been referred to Cabinet under Council Procedure Rule 12.6 or Council Procedure Rule 12.7, that Member will have the right to attend the relevant meeting of Cabinet and present their Motion/answer Cabinet's questions, as appropriately permitted under Council Procedure Rule 12.10.

(vi) The Constitution includes no provision for substitute members at meetings of the Executive.

2. AGENDA

2.1 Members' Written Questions

Any Member has the right to submit a written question to the Cabinet on any item on their agenda and to attend to present it at the meeting of the Cabinet when the item is to be considered. Such question shall be submitted at least 24 hours before this Cabinet meeting. The Member may withdraw their question at any time.

2.2 Order of Business

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

(a) Consideration of the minutes of the last meeting;

(b) Declarations of interest, if any;

(c) Matters referred to the Cabinet (by the Overview and Scrutiny Committees or the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 5 of this Constitution;

(d) Any matter where the Overview and Scrutiny Committee or Council have resolved that an item be considered by the Cabinet. The Chief Executive will ensure that an item is placed on the agenda of the next available meeting;

(e) Consideration of reports from the Overview and Scrutiny Committees;

(f) Matters set out in the Agenda for the meeting and which shall indicate which are key decisions, and which are not, in accordance with the Access to Information Procedure Rules set out in Part 5 of this Constitution;

(g) Key decisions, as indicated on the agenda for the meeting, in accordance with Access to Information Procedure Rules set out in Part 5 of this Constitution;

(h) Any matter relating to an executive function that the Leader of the Council wishes to be included, whether or not authority has been delegated to the

Cabinet, a Committee of it or any Member or Officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect;

(i) Any matter relating to an executive function requested by a member of the Cabinet. The Chief Executive will be required to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration, subject to the issue in question not having been considered in the last six months;

(j) Any matter relating to an executive function requested by a Member of the Council, subject to the agreement of the Leader of the Council. A Member may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, subject to the issue in question not having been considered in the last six months. If the Leader agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered who will also be invited to attend the meeting. There may only be up to two such items per Cabinet meeting;

(k) Any matter included on the agenda by the Monitoring Officer and/or the Chief Financial Officer for consideration. They may require the Chief Executive to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Chief Executive, Chief Financial Officer and Monitoring Officer are of the opinion that a matter requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet 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; and

(l) The Chief Executive or any member of Management Team may place an item on the agenda of any meeting of the Executive.

3. CONSULTATION

All reports to the Cabinet from any Member of the Cabinet or an Officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, and the outcome of that consultation.

Reports about other matters will set out the details and outcome of consultation, as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

Prior to all Cabinet Decisions, Ward Members must be consulted in specific ward related matters; the outcome of the consultation will be included within the body of the Report.

All reports to the Executive will include details of all appropriate officer advice in respect of the matter under consideration, in particular, advice from the Chief Executive, the Chief Financial Officer and/or the Monitoring Officer.

4. CONDUCT

(a) Disturbance by Public – Removal of Member of the Public

If a member of the public interrupts proceedings, the Leader will warn the person concerned. If he continues to interrupt, the Leader will order his removal from the meeting room.

(b) Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Leader may call for that part to be cleared.

5. PROCEDURES FOR PRIVATE MEETINGS OF THE CABINET

The rules concerning private meetings of the Cabinet are set out in the Access to Information Procedure Rules in Part 5. This does not apply to Portfolio Holder Working Parties or Groups, who meet for specific subjects with cross party representation.

6. DECISIONS

6.1 Overlap of Interests

(a) In cases where there is an overlap in responsibilities between Portfolio Holders, the Leader of the Council shall advise of the relevant Portfolio Holder to make the decision.

(b) Where any, or all, members of the Cabinet have an interest this should be dealt with in accordance with the Council's Code of Conduct for Members as set out in Part 5 of this Constitution.

6.2 How are Decisions to be taken by the Cabinet?

Cabinet decisions which have been retained to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules, as applicable in Part 5 of the Constitution.

After any meeting of the Cabinet, whether held in public or private, or with regards to decisions taken by individual members of the Cabinet, within their delegated powers, the Chief Executive, or, where no Officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting or by individual members of the Cabinet. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting. The record of decisions made at meetings will take the form of the minutes of the meeting.

Records of all decisions will be published as soon as practicable after they have been taken and made publicly available. In accordance with the Overview and Scrutiny Procedure Rules, decisions of the Cabinet, subject to certain exceptions, may not be implemented until the expiry of the call-in period.

7. PROCEDURES FOR PORTFOLIO HOLDER WORKING PARTIES

Portfolio Holders can form working parties to examine and advise the Portfolio Holder under specific aspects of the Portfolio Holder's responsibility, for a period limited to delivery of the project.

The process for forming a Portfolio Holder Working Party will require a letter or personal email sent to the Leader of each political group inviting them to identify members of their group who are interested in serving on the working party.

The appointment of Members to serve on working parties will therefore have had regard to the suggestions of Group Leaders and if necessary, the need to maintain a broad political balance within the membership thereof.

The Portfolio Holder will determine the size of their working party together with its terms of reference. The Portfolio Holder will also decide whether to involve relevant Ward Members and interested third parties in the work of the working party.

Any decision of a Portfolio Holder in respect of the administration of a working party cannot be called-in for scrutiny.

Any formal decision taken by a Portfolio Holder following the outcome of the Working Party will need to be formally recorded in accordance with Article 7 (7.08 Section 6.2) and include any declarations of interest as required by the Members' Code of Conduct and details of consultation undertaken with the relevant Ward Members.

ARTICLE 8 – COMMITTEES

8.01 Committees

The Council has the following Non-Executive Committees and Sub-Committees, the majority of which are appointed at Annual Council with a membership that reflects the political make-up of the Council. The roles and responsibilities and delegation of these Committees and Sub-Committees are set out in Part 3, Schedule 2, of this Constitution with current membership as set out below.

Committee	Membership
Audit Committee	7
Community Leadership Overview and Scrutiny Committee	9
Human Resources and Council Tax Committee	9
Licensing and Registration Committee	9
Planning Policy and Local Plan Committee	11
Planning Committee	9
Resources and Services Overview and Scrutiny Committee	9
Standards Committee	7
Miscellaneous Licensing Sub-Committee	5

In addition, the following Sub-Committees are also appointed which are not subject to the rules regarding political proportionality:

Premises/Personal Licences Sub-Committee	3
Town and Parish Councils' Standards Sub-Committee	3 TDC Cllrs (+ 3 non-voting co-opted Parish Council representatives)
Human Resources Sub-Committee	3 a Portfolio Holder, as determined by the Leader of the Council, Chairman (or Vice Chairman) of the Human Resources and Council Tax Committee and a named committee member from a political group that is not represented on the Cabinet

8.02 Roles and functions:

The Roles and the functions of these Committees and Sub-Committees are set out in Part 3 of this Constitution.

8.03 Proceedings:

Subject to Article 13.4, Committees and Sub-Committees will conduct their proceedings in accordance with the relevant Procedure Rules set out in Part 4 of this Constitution.

ARTICLE 9 – STANDARDS COMMITTEE & TOWN AND PARISH COUNCILS' STANDARDS SUB-COMMITTEE

9.01 Composition:

- The Standards Committee ("the Committee") shall consist of seven Members of Tendring District Council;
- No more than one Member shall be a Member of its Cabinet;
- No Leaders of Political Groups will be members of the Committee;
- The only Members permitted to be substitutes on the Committee will be those named at the beginning of the Municipal Year by the Political Group Leaders;
- No Member will be permitted to participate in meetings of the Standards Committee or its Sub-Committee unless they have undertaken specific Standards Committee training;
- No substitute Members will be permitted, unless they have undertaken specific Standards Committee training;
- The Committee is politically balanced in accordance with Section 15 of the Housing and Local Government Act 1989;
- The Committee will have a standing Chairman and Vice Chairman appointed by the Full Council. However, when the Committee is convened to conduct a hearing the meeting will be chaired by one of the Members of the Committee who is not from the same Political Group as the Member who is the subject of the complaint (nor of the same Group as the Complainant if a Member of the Council); and
- A member of the Standards Committee will not be permitted to sit in that capacity for a hearing if that Member is the subject of the complaint or the complainant. A substitute will be permitted, if they have undertaken specific Standards Committee training.

9.02 Quorum

- At least 3 voting Members of the Committee.

9.03 Meetings

- At least quarterly.

9.04 Terms of Reference

- The Standards Committee will exercise the functions in accordance with the terms of reference set out in Part 3 of this Constitution.

9.05 TOWN AND PARISH COUNCILS' STANDARDS SUB-COMMITTEE

(1) Terms of Reference:

- To advise and assist Town and Parish Councils and Councillors to maintain high standards of conduct and to make recommendations to Parish and Town Councils on improving standards or actions following a finding of a failure by a Parish Councillor to comply with its Code of Conduct.

(2) Composition:

- Three Members of the Standards Committee and three non-voting co-opted Town and Parish Council members to be nominated by the Tendring District Association of Local Councils;
- The nominated Town and Parish Council members will be of independent standing and will not have served as District or County Councillors for a period of four years prior to their nomination;
- Tendring District Council would also prefer that the nominated Town and Parish Council members represented different parish/town councils; and
- A member (or non-voting co-opted member) of the Town and Parish Councils' Standards Sub-Committee will not be permitted to sit in that capacity for a hearing if that Member is the subject of the complaint or the complainant. A substitute will be permitted, if they have undertaken specific Standards Committee training.

(3) Meetings:

- The Sub-Committee will meet as and when required.

(4) Quorum:

- The Quorum for meetings of the Standards Sub-Committee is three voting Members. All three Tendring District Councillor Members, or substitutes for them, therefore, have to be present at the Sub-Committee.

(5) Voting:

- Only the three District Council Members (or their substitutes, if applicable) on the sub-Committee can vote.

- The views and recommendations of the three Town and Parish Council representatives will be recorded in the minutes of the meeting.

(6) Chairmanship:

- The Sub-Committee will appoint a Chairman from the District Councillor membership.

- However, when the Committee is convened to conduct a hearing the meeting will be chaired by one of the Members of the Sub-Committee who is not from the same political Group as the Member who is the subject of the Complaint (nor of the same Group as the complainant if a Member of the Council).

ARTICLE 10 – COMMUNITY CONSULTATION AND PARTICIPATION

10.01 Community Consultation and Participation

The Council will promote community consultation and participation through a range of opportunities as set out in Table 1 below. Where Councillors are appointed to outside bodies this information is included within the Council's website.

Table 1

Consultation and Participation Opportunity	Form, Function and Scope
Local Councils	Autonomous local authorities within a set area able to raise funds through the Council Tax to provide local services (i.e. Town and Parish Councils). Consultation with local Councils could also include consultation with the Tendring District Association of Local Councils (TDALC). It should be remembered that not all areas in the District have local Councils.
Community Forums	Public meetings designed to enable the Council to engage with specific sections or areas of the local community so that services are designed to meet their needs.
Community/Business Groups	Organisations that represent individuals, businesses etc. They may be solely local in nature or affiliated to regional/national bodies. Consultation will depend entirely on the nature of the organisation and the interests they seek to represent or provide for. Organisations will vary in size and the administrative support available to them.
Tenants and Sheltered Housing Panels	Organised through the Tenants' Compact as a consultation and participation opportunity for tenants and private owners of properties in estates. These Panels provide an opportunity for general consultation and participation by area.
Service Users	Consultation with those who use a particular service can provide extensive information about how that service can meet expectations about it.
Petitions	The Council has approved and published a Petitions Scheme detailing how it will respond to petitions received from the community.
Surveys, feedback and Consultations	Throughout the year a number of paper based and on-line surveys and consultations are undertaken to seek residents' views. Through complaints monitoring the Council can examine feedback the complaints provide to identify areas to

	address. The Council's social media accounts provide opportunities for the public to seek responses and express views.
Public Invitation/Notice	Whether required by statute or otherwise, public notices on the Council's website, principal offices, "site notices", notices to adjoining owners and in newspapers can invite comments on issues set out in the invitation/notice. Examples include notices to business ratepayers on the draft budget/capital programme under Section 65 of the Local Government Act 1992; with neighbours/interested parties under Article 15 of the Town and Country Planning (Development Management Procedure) Order 2015 in respect of planning applications; and Regulation 38 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 in respect of review applications.
Participation in Overview and Scrutiny Reviews	Reviews undertaken by Overview and Scrutiny (including Task and Finish Groups) may include consultation with the local community, where appropriate, and/or representatives of community of other groups to inform their enquiries.
Ward Councillors	The Council will seek to consult with the relevant Ward Councillor(s) on issues that directly affect their ward. In particular, Article 7 of this Constitution (The Executive), sets out in section 3 consultation requirements with Ward Councillors.
Boards and Panels with various Partner Organisations: details of the specific Boards are set out in Table 2 below.	

Table 2

Board:	Role and Objectives	Partnership Stakeholders
Community Safety & Health & Well-Being Board The Crime and Disorder Act came into force in July 1998 and required CDRPs (now known as CSP's) to be set up in each District in England and Wales. The Act placed an obligation on local authorities and the Police, (amongst others), to work together to develop and implement a strategy to tackle crime and disorder in the area. Under the Act and the subsequent Police Reform Act 2002, the named stakeholders have been designated "Responsible Authorities" and are held responsible for this work. To improve the health and well-being of the population of the District and reduce health inequalities.	The Tendring Community Safety Partnership has identified 4 key strategic themes to reduce crime and the fear of crime in the District and to improve community safety. These are: 1. Tackling and Enforcement of ASB issues; 2. To reduce harm to and safeguard vulnerable victims (including Children); 3. Reducing Violence and Knife Crime 4. Reduce youth offending and re-offending of adults and young people and thus support the overarching theme for Safer Essex. 1. Provide strong and effective political and public leadership for health and well-being locally; 2. Engage with the local population to better understand the health and well-being issues and needs in Tendring and ensure that this is captured in County and District needs assessments.	Tendring District Council Essex Police Essex County Council Police and Crime Commissioner Essex County Fire and Rescue Service Essex Community Rehabilitation Company National Probation Service North East Essex CCG and members of the voluntary sector Essex County Council (host authority)

ARTICLE 10 – COMMUNITY CONSULTATION & PARTICIPATION

Board:	Role and Objectives	Partnership Stakeholders
	3. Through the JSNA and local stakeholder engagement, identify key priorities for health and local government commissioning and develop clear plans for using combined resources; 4. Realise opportunities to engage with the Essex Health and Well-being Board work streams and other initiatives such as Community Budgets; 5. Foster good engagement with the North East Essex Clinical Commissioning Group. 6. Take an overview of the delivery of the strategic plans of the North East Essex CCG plan and the County Health and Well-being Strategy and identify the role other sectors, public, voluntary and private, could contribute; 7. Monitor and review the implementation of the County Joint Health and Well-being Strategy locally.	Community Voluntary Sector Essex Carers Clinical Commissioning Group St Helena Hospice Job Centre Plus Health Watch Citizens Advice Bureau

ARTICLE 10 – COMMUNITY CONSULTATION & PARTICIPATION

Board:	Role and Objectives	Partnership Stakeholders
Tendring Education Strategic Board (TESB) A strategic board with responsibility for supporting improvement in the quality of education and outcomes for children and young people across the Tendring District. The County and District Councils work collaboratively with schools and education partners to bring their collective effort and energy to address key priorities.	The purpose of the TESB is to: • Raise educational outcomes for the children and young people of Tendring • Positively impact on the wider society of Tendring through improvement of education • Influence other programmes to specifically support CYP and their families • Connect with other organisations to target funding and initiatives towards Tendring e.g. lottery funding, commissioned contracts • Identifying and delivering collective solutions which increase the consistency of best practice and offer for CYP in Tendring In order to meet the above, the board have targeted their focus on 3 key areas. The priorities which have been agreed by the TESB for 2020/21 academic year are: 1. Recruitment of high-quality staff 2. Retention of high-quality staff 3. Improved Pupil Attendance and Engagement of Children, Young People and their Families There is also a sub-group working on the development of the Post 16 local offer who will report into the TESB as well as a regional/national barriers subgroup looking at solutions to any potential barriers within the locality.	TDC is the host authority Essex County Council (ECC Officer Chair of Board) Secondary school head teachers Representation from primary school head teachers Local Education Partners

ARTICLE 10 – COMMUNITY CONSULTATION & PARTICIPATION

Board:	Role and Objectives	Partnership Stakeholders
Local Highways Panel Each District or Borough Council has a local Highways Panel set up with Essex County Council as a new way of working to improve highway amenities in each individual district using the County Council's local highway budget.	• Improve local highway amenities; • To consider proposed schemes and recommendations from the County Councillors elected to represent the District to the relevant County Council Portfolio Holder; but • Excluding the scheduled maintenance and improvement programme.	Membership of the Panel is made up of all 8 County Members representing Tendring, 4 District Councillors, and a Member of TDALC. ECC host the meeting.
Suffolk and North East Essex Integrated Care System (ICS) The ICS brings partners together in relation to health and care to join up provision and improve the health and well-being of the population.	Suffolk and North East Essex Integrated Care System (ICS) brings together the full spectrum of partners responsible for planning and delivering health and care across North East Essex; Ipswich and East Suffolk; and West Suffolk to ensure shared leadership and joint action to improve the health and well-being of the one million people who live locally. The ICS has a key role to ensure joint working across the NHS and local authorities to make shared commissioning decisions together with providers on how to use resources, design services and improve population health. The ICS seeks to improve the health and well-being of populations and reduce the health gap. The ICS outcomes are that everyone: - has a good start in life - is able to live a healthy a life as possible - has a good experience of ageing	NHS Commissioners NHS Provider Trusts Local Government including Tendring District Council and Essex County Council NHS regulators Primary Care – GPs, community pharmacists, optometrists and dentists, independent sector providers

Board:	Role and Objectives	Partnership Stakeholders
	- has a good experience at the end of their life and in addition to meet the East of England ambition that everyone has an extra 3 years of healthy life by 2029.	Community and voluntary sector, public, patient and carer groups Education, research and police
North East Essex Health and Well-being Alliance The Alliance is a collaboration of commissioners, providers and other system partners working together as an integrated system to transform the health and well-being of the population of North East Essex	To support the Alliance vision of reducing inequality there is a focus on the wider determinants of health and a Live Well approach has been adopted to ensure communities are supported and empowered at each stage of their life. - Start Well – children and young people have the best start in life - Feel Well – people enjoy mental well-being - Be Well – adults are empowered to make healthy lifestyle choices - Age Well – people live safely and independently as they grow older - Stay Well – Adults with health or care concerns are supported to maintain healthy, productive and fulfilling lives - Die Well – individuals nearing the end of life have choice around their care Six neighbourhood teams will be developed across North East Essex including three in Tendring and each will have a multi-disciplinary	Anglian Community Enterprise (ACE) Colchester Borough Council Community 360 Community Voluntary Services Tendring East of England Ambulance Service East Suffolk and North Essex NHS Foundation Trust Essex County Council

	team empowered and supported to deliver the Live Well outcomes in their area.	Essex Partnership University NHS Foundation Trust Healthwatch North East Essex Clinical Commissioning Group St Helena Hospice Tendring District Council Virgin Care
Youth Strategy Group To act as local champions for young people's services within the District. To act as a consultative body to support the development of local provision, to provide guidance on the type and quality of provision as required in the District and influence the use of existing youth work resources. To act as a catalyst to draw together partners and key stakeholders to identify	To identify the needs of young people in their local area, in partnership with district/borough/city councils and other agencies to develop a joint strategy for addressing gaps in provision. For articulating the local needs of young people, to understand the current provision and to set priorities in order to avoid duplication and fill gaps. To identify and build relationships with the voluntary sector and/or private sector partners to attract new provision and funding opportunities to meet priorities and extend the offer to young people. To ensure that measures are in place to safeguard the financial probity of any projects, programmes or arrangements that the Group would enter into. To provide a local forum through which informed debate in relation to	The Group consist of agencies and organisations delivering services to young people within the age range 11-25 with a priority on those aged 13-19. In addition representatives from: • All local county councillors • 1 district cllr • 1 district officer

priorities and delivery provision for young people.	services and support for young people can take place. To make recommendations to appropriate local agencies and commissioning boards about local service priorities. To inform how services for young people might be delivered and co-ordinated to avoid duplication. To consider and advise the relevant cabinet member on the use of local allocations of capital expenditure.	• 1 Youth Service worker involved in local area delivery • 3 young people: one Young Essex Assembly Member (YEA) and two other young people (aged between 13-19 years) who are service users and/or from the local community

ARTICLE 10 – COMMUNITY CONSULTATION & PARTICIPATION

Board:	Role and Objectives	Partnership Stakeholders
North East Essex Local Children's Partnership Board (LCPB) Brings together partners at local level and is underpinned by the Children's Act 2004 duty to co-operate (as amended). The purpose of the LCPB is for partners to work together to determine local needs, identify priorities and develop action plans to secure better outcomes for children and young people in the District/Borough. The LCPB is accountable to the Essex Children's Partnership Board (ECPB). Undertaking its activity within the framework of the Essex Children and Young People's Plan, reflecting the relevant Health and Well-Being Plan Priorities for children, young people and families. The LCPB engages with the local community, analysing and determining local need and informing the county wide Joint Strategic Needs Analysis and the Strategy of the ECPB. The LCPB	The primary aim of the LCPB is to improve the outcomes for children and young people in the area by: • strengthening the services and processes that keep children and young people safe from neglect and abuse; • developing an action plan within its overarching priorities which enables children and young people to aspire, learn, achieve highly and realise their potential; • improving the life chances of Looked After Children, young carers and all other children and families at risk of poor outcomes; • reducing the impact of poverty and recession on the lives of children, young people and their families thereby providing children, young people and families with opportunities to contribute meaningfully and be involved in the development and delivery of services in their local communities. The LCPB will ensure that a robust and effective relationship with the Essex Safeguarding Children's Board exists through the local Stay Safe Group which is a sub group of, and accountable to, the LCPB, consulting with them on safeguarding issues and on the development of the local Stay Safe Plan. The LCPB will also ensure that there are appropriate links and	The LCPB will be made up of the leaders of local agencies and the Board may co-opt members as they see appropriate. Current membership is: NHS District Council Police LSP Job Centre Plus Voluntary – community sector Essex School Governors Association Education Essex County Council

Board:	Role and Objectives	Partnership Stakeholders
provides a local governance structure for integrated working practise and a local focus for collaboration.	reporting arrangements to other relevant local bodies and boards associated with District/Borough/City Councils, Education, Health and Social Care.	
Tendring Independent Advisory Group (TIAG) **Purpose of TIAG:** To assist in the communication exchange between Essex Police and all Essex communities (Tendring), and provide independent advice to Essex Police to ensure a fair and non-discriminatory police service to all communities gaining their trust and confidence and promoting community cohesion.	1. Provide a channel for the exchange of information between the Police and diverse communities/groups of Essex (Tendring) 2. Provide advice to Essex Police, in particular in the areas of: • Hate crime • Policing operations, critical and/or Major Incidents • Police training • Stop and Search 3. Share knowledge, awareness and experience of community issues, good practice and areas of development with the group 4. Work at the direction of the Strategic IAG when required, in particular to provide advice and guidance to Essex Police on the development and introduction of policies and practices to ensure they do not exclude, discriminate or have an unjustifiable adverse impact on any community 5. To assist Essex Police in developing their understanding of the needs and expectations of the diverse communities of Essex, as	Tendring District Council (Chair) Essex Police Voluntary and Community Groups Members of BAME communities Faith Groups

	they relate to providing a fair and non-discriminatory police service A Critical Incident is defined as: "**any incident where the effectiveness of the Police response is likely to have a significant impact upon the confidence of the victim, their family, and/or the community**".	

ARTICLE 11 – JOINT ARRANGEMENTS

11.01 Legislation Requirements:

Any joint arrangements must be made in accordance with the current and relevant legislation. Any consideration to establish new arrangements must comply with the detailed requirements and be reflected within the decision.

11.02 Arrangements to Promote Well-Being:

The Council or the Cabinet, 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.

11.03 Joint Arrangements

(a) The Council may establish joint arrangements with one or more local authorities and/or their Executives/Cabinets to advise the Council on, or exercise Cabinet or Council functions in any of the participating authorities.

(b) Except as set out below, the Cabinet may only appoint Cabinet Members to a joint committee and those members need not reflect the political composition of the local authority as a whole.

(c) The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstance:

- The joint committee has functions for only part of the area of the authority. In such cases, the Cabinet may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area.

In this case the political balance requirements do not apply to such appointments.

(d) Details of any joint arrangements including any delegations to joint committees are set out in the Council's Scheme of Delegations in Part 3 of this Constitution.

11.04 Access to Information

(a) If all members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.

(b) If the joint committee contains members who are not on the Cabinet of any participating authority then the Access to Information Procedure Rules in Schedule 12A of the Local Government Act 1972 apply (as referred to in Part 5 of this Constitution).

11.05 Delegation to and from Other Local Authorities

(a) The Council may delegate non-executive functions to another local authority.

(b) The Cabinet may delegate executive functions to another local authority.

(c) The decision whether to accept such a delegation from another local authority shall be reserved to the Council in relation to non-executive functions and the Cabinet in relation to executive functions.

11.06 Contracting Out:

The Council (for non-executive functions) and the Cabinet (for executive functions) may contract out to another body or organisation functions which may be exercised by an Officer. Such functions may be contracted out where they are subject to an Order under Section 70 of the Deregulation and Contracting Out Act 1994. This also applies 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 12 - OFFICERS

12.01 Management Structure

(a) General. The full Council may engage such employees referred to as "Officers" as it considers necessary to carry out its functions.

Post	Main Functions and Areas of Responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all officers). Provision of professional advice to all parties in the decision-making process and, together with the Monitoring Officer responsibility for a system of record keeping for all the Council's decisions. Representing the Council on partnership and external bodies as required by statute or by the Council.
Deputy Chief Executive and Corporate Directors (including the Section 151 Officer and the Monitoring Officer).	To contribute substantially to the vision and strategic management of the Council and the development of appropriate policies reflecting corporate aspirations. Provide corporate leadership and co-ordination as required of Council wide projects, cross-service initiatives and strategies. To influence the development of high-quality services. To be accountable for the performance management of services within the remit of the post, through operational heads of service. To deputise for the Chief Executive when necessary.

The above positions and such other positions as shall from time to time be deemed appropriate shall form the Council's Management Team.

(b) Functions and Areas of Responsibility of the Council's Management Team:

The Management Team shall work with Councillors to develop and manage the Council's strategic direction and to ensure the delivery of agreed targets within the following service areas:

Post	Services	Areas of responsibility including:
Chief Executive	Community Leadership	Locality Board Support and Community Leadership and Strategy.
Assistant Director (People)	People	Management of strategic and corporate HR function and workforce development, Organisational Development, Public Service Forum, Career Track, Skills and Apprenticeships Customer Services, Contact Centre, Telephony, Switchboard, and Printing and Postal Services.
Corporate Director (Law & Governance)	Governance and Monitoring Officer	Corporate Governance & Corporate Procurement Corporate overview of the Council's compliance with RIPA.
	Legal	Corporate and Service Legal Advice & Guidance, FOI & EIR Internal Reviews.
	Corporate Policy & Support	Leadership Support Elections and Electoral Registration Council, Cabinet and Committee administration, Overview and Scrutiny arrangements (including support to the Community Leadership and Resources and Services Overview and Scrutiny Committees) Corporate Complaints, Ombudsman Issues Licensing Corporate Plan development and Performance Management.
	Corporate Communications	Communications (Internal and external) Intranet content
Corporate Director (Finance & IT) & Section 151 Officer	Finance and Revenues and Benefits	Annual Budget Strategy, Budget Management, Accountancy, Exchequer, Insurance, Treasury Management and Banking, Internal Audit, Procurement Strategy and Central Purchasing, Administration of Council Tax and Housing Benefit, Business Rates (NNDR) and Reliefs. Local Council Tax Support Scheme, Cash Collection/Pay Point, Rent Collection and Benefit fraud and compliance.

	IT and Corporate Resilience	ICT Contract and Strategy, Network and Systems Support, Data Protection, Information Management, Key aspects of Organisational Transformation (including mobile and remote working and communications and IT, efficiency and effectiveness), Internet, Provision of Council wide Business Continuity, Corporate Health and Safety, Freedom of Information (FOI) and Environmental Information Regulations (EIR) requirements.
Deputy Chief Executive & Corporate Director (Place and Wellbeing)	Health	Health Service Liaison, Health and Well-being, Community Health and Health Inequalities. Communities of Interest (Children and Young People), Education, Community Engagement, Development and Empowerment (including advice and relationships with Public and Third Sector Organisations).
	Sport and Leisure, Tourism, Heritage and Culture	Sports Centres and facilities, Sports Initiatives and Sports Development, Princes Theatre Management, Arts, Entertainment, Culture and Heritage Initiatives and Events and Tourism Strategy, Events, Information and Promotion.
	Regeneration & Economic Growth	Strategic Regeneration, Economic Growth Strategy, Inward Investment, Business Support (employment and redevelopment), Town Centres Support Policy and Project Development, Funding Bids, Skills and Apprenticeships, Jaywick Team and Job Centre Plus Partnership.
	Project Delivery Unit	Levelling Up and Capital Regeneration Projects, Community Regeneration Partnership, Town Board and Project Delivery
	Climate Change	Climate Change Initiatives

Corporate Director (Operations & Delivery)	Public Realm	Seafronts, Beach Huts, Crematorium and Cemeteries, Horticultural Services, Open Spaces, Recreation Grounds, Children's Play Areas, Fleet Management and Vehicle Workshops. Off Street Car Parking Service, Traffic Regulation Orders, Public Conveniences, Strategic parking advice and on street functions as delegated by the Highways Authority and Neighbourhood activities.
	Environmental Health & Waste Management Services	Household Waste minimisation and collection, Recycling maximisation and collection, Street Cleansing, Dog Warden Service, Pest Control, Littering, Dog Fouling, Fly-tipping, Enforcement of Food Safety and Hygiene, Water Safety/Quality, Pollution, Animal Welfare, Public Protection, Environmental Health, Abandoned Vehicles, Port Health, Unlawful Car Sales,
	Coastal Protection	Coast Protection – Planning and Major Schemes, Coast Protection Maintenance, Minor Engineering Works, Sewerage and land drainage and local highways and lighting function.
	CCTV, Out of Hours Service and Tenant Relations	Provision, maintenance and development of CCTV systems, Out of Hours Service, and Tenant Relations.
	Housing	Financial Assistance for Private Sector Housing, Houses in Multiple Occupation, Private Sector Housing – regulation and improvement, Tenant Redress Scheme, Private Sector Housing conditions, enforcement and advice, Gypsy/Traveller Liaison, Home Energy Efficiency and Fuel Poverty and Housing Strategy and Development. Homelessness policy and advice and assistance to persons homeless and in housing need, Housing Allocation Scheme, Sheltered Housing, Estates Management, Housing Revenue Account and Business Plan, Right to Buy and other Housing Revenue Account disposals, partnership with Registered Providers, enable new opportunities to address housing need through partnership working and Disability Facilities Grant regime.

	Building and Engineering	Organisational Transformation (including efficiency and effectiveness, shared working, office use, IT and Customer Services), Housing Investment Programme, Dangerous Structures, Buildings advisory service, Council Office and Buildings Policy, including Facilities Management and Maintenance, Depots, Office Cleaning. Housing Revenue Account and Business Plan and Engineering Services.
	Property and Asset Management	Leading Organisational Transformation (including efficiency and effectiveness, shared working, office rationalisation programme to invest in fewer, better buildings, IT and Customer Services), Overview and formulation of Assets Strategy and Policy, Assets Service providing property advice and support to service areas and initiation and determination of Property matters.
	Community Safety	Community Safety
	Emergency Planning	Emergency Planning
Corporate Director (Planning and Community)	Planning & Strategic Planning and Place Shaping	Strategic Planning Policy (including the Local Plan and the TCB Garden Community), Infrastructure Planning, Revitalising Town Centres, Transport and Digital Economy, Development Management, Local Land Charges, Building Control and planning pre-application advice (for all services including the setting of appropriate fees). Heritage and conservation, trees and tree protection, general planning enforcement, Section 106 Agreements and planning administration.
	Careline	Careline

(c) Head of Paid Service, Monitoring Officer and Chief Financial Officer (Section 151 Officer):

The Council has designated the following posts to fulfil a specific statutory position as shown:

Designation	**Post**
Head of Paid Service	Chief Executive
Monitoring Officer	Corporate Director – Law and Governance
	Corporate Director - Finance and IT

Chief Financial Officer (section 151 Officer)	

These posts will have the functions described in paragraphs 12.02-12.05 below.

(d) Scrutiny Officer

The Council has designated the post of Assistant Director Corporate Policy and Support to fulfil the role of the Council's Scrutiny Officer. The role is to:

- promote the role of the Council's overview and scrutiny committees;
- provide support to those committees and its members; and
- provide support and guidance to Members and Officers relating to the functions of the overview and scrutiny committees.

12.02 Functions of the Head of Paid Service

(a) Discharge of functions by the Council:

The Head of Paid Service will report to the full Council, whenever they consider it appropriate, on how the Council's functions are discharged, the number and grade of Officers required to discharge the functions and how Officers are organised into an overall Officer structure.

(b) Restrictions on functions:

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer (Section 151 Officer) if an appropriately qualified accountant.

(c) Structure:

The 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, which is included within Part 8 of this Constitution.

12.03 Functions of the Monitoring Officer

(a) Ensuring lawfulness and fairness of decision making:

After consulting with the Head of Paid Service and the Chief Financial Officer (Section 151 Officer), the Monitoring Officer will report to the Council, or to the Cabinet in relation to an executive function, if they consider 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.

(b) 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 and its Sub-Committee.

(c) 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.

(d) Providing Advice:

The Monitoring Officer will provide advice to all Councillors on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, Budget and Policy Framework issues. The Chief Financial Officer (Section 151 Officer) has similar responsibilities.

(e) Record Keeping:

Responsibility for a system of record keeping for all of the Council's business.

(f) Proper Officer for Access to Information:

Ensuring that Cabinet decisions together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.

(g) Maintaining the Constitution:

Maintaining an up-to-date version of the Constitution on the Council's website and ensuring that it is widely available for consultation by Members, staff and the public.

(h) Restrictions on Posts:

The Monitoring Officer cannot be the Chief Financial Officer (Section 151 Officer) or the Head of Paid Service.

12.04 Functions of the Chief Financial Officer (Section 151 Officer)

(a) Ensuring lawfulness and financial prudence of decision making:

After consulting with the Head of Paid Service, appropriate Corporate Directors and the Monitoring Officer, the Chief Financial Officer (Section 151 Officer) will report to the Council, or to the Cabinet in relation to an executive function, and the Council's external auditor if they consider 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 Financial Officer will have responsibility for the administration of all the financial affairs of the Council.

(c) Contributing to corporate management:

The Chief Financial Officer (Section 151 Officer) will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) Providing advice;

The Chief Financial Officer (Section 151 Officer) will provide advice to all Councillors on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, Budget and Policy Framework issues to all Councillors and will support and advise Councillors and officers in their respective roles. The Monitoring Officer has similar responsibilities.

(e) Give financial information:

The Chief Financial Officer (Section 151 Officer) will provide financial information to the media, members of the public and the community.

(f) Internal Audit:

The Chief Financial Officer (Section 151 Officer) will have responsibility for the provision of an effective internal audit function and support the Audit Committee.

12.05 Duty to Provide Sufficient Resources to the Head of Paid Service, Monitoring Officer and Chief Financial Officer

The Council will provide the Head of Paid Service, Monitoring Officer and Chief Financial Officer (Section 151 Officer) with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

12.06 Conduct

Officers will comply with the Employees' Code of Conduct and Protocol on Member/Officer Relations as set out in Part 6 of this Constitution.

12.07 Employment

The recruitment, selection and dismissal of Officers will comply with the Scheme of Delegation and Officer Employment Rules set out in Part 5 of this Constitution.

ARTICLE 13 – DECISION MAKING

13.01 Responsibility for Decision Making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas of functions. This record is set out in Part 3 of this Constitution. The Council's Monitoring Officer will also retain a central record of delegations by the Chief Executive, the Corporate Directors and Assistant Directors providing authority within their respective service areas of responsibility.

13.02 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 consideration of all the relevant factors and options, taking into account the results of any consultation undertaken and the professional advice of Officers;

(c) Respect for human rights, and equality and diversity;

(d) A presumption in favour of openness;

(e) Clarity of aims and desired outcomes; and

(f) Transparency (i.e. explaining what options were considered and giving the reasons for that decision).

13.03 Key Decisions

A "key decision" means an executive decision that is likely to –

- result in the local authority incurring expenditure which is, or the making of savings which are in excess of, £100,000 or is significant having regard to the local authority's budget for the service or function to which the decision relates; or

- be significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority.

The definition of a key decision will be reviewed as part of the compilation and approval of the Council's Governance Statement by the Audit Committee. That Committee will submit any recommendations as to amending that definition to the Portfolio Holder with responsibility for the Constitution.

A decision-taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Article 7 of this Constitution and the Access to Information Procedure Rules.

Where an executive decision has been taken on a matter and that decision was treated as a key decision and made in accordance with the requirements of the Constitution then any further executive decision regarding that matter that purports to enact all or part of the requirements of that original decision need not be treated as a key decision.

13.04 Decision making by Council, Cabinet, Overview and Scrutiny Committees, Other Committees and Sub-Committees

All decisions will follow the general principles contained within this Article. In addition, decision-makers will follow the relevant procedure rules, as set out in Part 5 or Article 7, as appropriate when considering the matter.

The Chief Executive, Chief Financial Officer and Monitoring Officer have the right to attend, speak on an item of business, provide representations and present a report to discharge their statutory and constitutional duties whenever necessary. In such instances, the decision making body will give due regard to the relevant advice provided. The decision and minutes of the meeting will record the advice, how it was taken into account and reasons for any departure.

13.05 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 as contained in Article 6 of the European Convention on Human Rights.

ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

14.01 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules as set out in Part 5 of this Constitution.

14.02 Contracts

Every contract made by the Council will comply with the Procurement Procedure Rules as set out in Part 5 of this Constitution and any guidance issued by the Monitoring Officer.

14.03 Legal Proceedings

The Corporate Directors, in consultation with the Corporate Director – Law and Governance, are authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to the decisions of the Council, or in any case where they and the Assistant Director (Governance) consider that such action is necessary to protect the Council's interests.

14.04 Authentication of Documents

Where any document is necessary in any legal procedure or proceedings on behalf of the Council, it will be signed by Corporate Director - Law and Governance or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value up to £10,000, entered into on behalf of the Council, shall be recorded through the Council's official order system and in accordance with Section 6 of the Procurement Procedure Rules, subject to any emergency requirement agreed with the Chief Financial Officer.

Any contract with a value of £10,000 to £50,000, entered into on behalf of the Council shall be in writing and in accordance with Section 5 of the Procurement Procedure Rules. Such contracts must be signed by at least two Officers of the Authority authorised by the Chief Executive.

Any contract with a value in excess of £50,000 must be made in writing and under the Common Seal of the Council attested by at least one Proper Officer and in accordance with Section 5.

14.05 Common Seal of the Council

(a) The Common Seal of the Council will be kept in a safe place under the control of the Corporate Director – Law and Governance.

(b) Authority for using the Common Seal of the Council is provided by:

(i) A decision of the Council, Cabinet, a member of the Executive, a Committee or a Sub-Committee; or

(ii) A (duly authorised) Officer's Decision recording:

- Entering into a Contract with a value exceeding £50,000 and/or
- Issuing certificates for corporate award schemes.

(iii) Any other documents which should be sealed in the opinion of the Corporate Director – Law and Governance including (but not limited to):

- Leases and transfers;
- Licences to Assign;
- Deeds and Agreements (property related)
- Byelaws;
- Miscellaneous Orders (such as Tree Preservation Orders or Traffic/Road Orders);
- Legal Charges in the Council's favour on private properties (including secure repayment of local loans).

The affixing of the Common Seal will be attested by the Corporate Director – Law and Governance or some other person authorised by them.

The Corporate Director – Law and Governance is authorised to amend these documents listed in 14.05(b)(iii), if permitted by law and it is considered necessary to do so as a result of urgent requirements and circumstances restricting access to the Council offices.

ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION

15.01 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. The Monitoring Officer will make an annual assessment of the Constitution to identify any weaknesses or improvements in its operation and make recommendations for ways in which it could be amended in order to better achieve its purpose.

15.02 Changes to the Constitution

(a) Any proposals for changes to the Constitution arising from a review of the Constitution, whether it be initiated by the Monitoring Officer or a resolution by a member body, will be reported to the Cabinet, via the Portfolio Holder with responsibility for corporate governance, which in turn will make recommendations to the Council.

(b) The Monitoring Officer shall have authority to make minor changes to the Constitution arising from:

- new legislation;
- changes to the organisational structure of the Council;
- decisions of the Council or Cabinet; or
- in exercise of the Leader's authority to make changes to Cabinet responsibilities.

(c) Subject to (d) below, changes to the Constitution will be approved by the Council only after consideration of a proposal by the Monitoring Officer and the Cabinet.

(d) Matters affecting the Cabinet shall be approved by the Cabinet or Leader of the Council.

(e) The Council must comply with regulations made under Section 30 of the Local Government Act 2000, and guidance issued from time to time by the Secretary of State under Section 38, and take reasonable steps to consult with local electors and other interested persons in the area when drawing up any proposals to change from a Leader and Cabinet Executive arrangements to one of the alternative forms permitted by the Local Government Act 2000 or vice versa.

ARTICLE 16 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

16.01 Suspension of the Constitution

(a) Limit to suspension:

The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by Council to the extent permitted within those Rules and the law.

(b) Procedure to suspend:

A motion to suspend any rules can only be made without notice, if at least 36 Members of the Council are present and will not be carried unless 24 Members vote in favour of suspension. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution as set out in Article 1.

(c) Rules capable of suspension:

- Council Procedure Rules
- Budget and Policy Framework Procedure Rules
- Financial Procedure Rules
- Procurement Procedure Rules

16.02 Interpretation

The ruling of the Chairman of the Council (or other person presiding) as to the interpretation 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 and the advice of the Monitoring Officer.

16.03 Publication

(a) The Democratic Services Manager will give a printed copy of the Members' Handbook, including various parts of this Constitution to each Member of the authority upon delivery of that individual's declaration of acceptance of office on the Member first being elected to the Council.

(b) The Democratic Services Manager will ensure that completed and updated copies are available for inspection at appropriate locations and on the Council's website, and can be purchased by members of the public or local press on payment of a reasonable fee.

Part 3

Responsibility of Functions

—

Scheme of Delegated Powers

RESPONSIBILITY FOR FUNCTIONS

DELEGATED POWERS

GENERAL

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) give effect to section 13 of the Local Government Act 2000 by specifying:-

(a) which functions are not to be the responsibility of the Executive (Cabinet), as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and as detailed in the Appendix to this part of the Constitution;

(b) functions which may (but need not) be the responsibility of the Executive (Cabinet) (local choice functions); and

(c) which are to some extent the responsibility of the Executive.

All other functions not so specified are to be the responsibility of the Executive.

Every decision of the Cabinet, a Portfolio Holder, Committee, Sub-Committee, Working Party or Officer under delegated powers shall comply with the Council's Constitution and in particular with its Budget and Policy Framework, Council Procedure Rules, Financial Procedure Rules and Procurement Procedure Rules and any expenditure involved is subject to such compliance.

1. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

Local Choice functions are those, which may (but need not) be the responsibility of the Cabinet. Schedule 1 of Part 3 of the Constitution details the responsibility for those local choice functions as set out in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as determined by the Council.

2. RESPONSIBILITY FOR COUNCIL (NON-EXECUTIVE) FUNCTIONS

The roles and responsibilities of full Council are set out in Article 4 of the Constitution. The specific functions set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 which are retained for determination by full Council are set out in Schedule 2.

The full Council has established those non-executive committees as set out in Schedule 2 of this Part of the Constitution to discharge those functions, which are not to be the responsibility of the Executive, as set out in the Local Authorities (Functions and Responsibilities) (England)

Regulations 2000 and the Appendix to Part 3 of the Constitution. Decisions relating to these functions shall be made in one of the following ways:

(a) By one of the non-executive Committees listed in Schedule 2 of this Part 3 of the Constitution;

(b) By Officers, in consultation with a Member, in accordance with the Scheme of Delegation to Officers;

(c) By Officers; or

(d) Where any matter involves amendment to the Budget and Policy Framework, by the Council following receipt of advice from the relevant non-executive Committee and the Cabinet.

Schedule 2 sets out the arrangements for delegation of non-executive functions to the above.

3. RESPONSIBILITY FOR EXECUTIVE (CABINET) FUNCTIONS

The Cabinet is responsible for making all decisions within the Budget and Policy Framework set by full Council, except for decisions in connection with those matters, which cannot be the responsibility of Cabinet as specified in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. Details of the overall responsibilities of the Cabinet are set out in Schedule 3 of Part 3 of the Constitution. Decisions in respect of executive functions shall be made in one of the following ways:

(a) the Cabinet collectively, at public meetings;

(b) By an individual Member of the Cabinet (Portfolio Holder), within their areas of responsibility and delegated powers;

(c) An Officer, in consultation with a Portfolio Holder;

(d) An Officer, or

(e) Where the decision is outside the Budget and Policy Framework, by full Council following receipt of advice from the Cabinet collectively.

Schedule 3 sets out the arrangements for delegation of executive functions to the above.

4. OVERVIEW AND SCRUTINY FUNCTIONS

The functions of the Council's overview and scrutiny function are set out in Article 6 of the Constitution.

Schedule 1

Responsibility for

LOCAL CHOICE FUNCTIONS

Local Choice Functions are those functions, which may (but need not) be the responsibility of the Executive (the Cabinet). The table below details the responsibility for local choice functions, as determined by the Council.

Function	Decision Making Body	Delegation of the Function
1. Any function under a local Act, other than a function specified under Regulation 2 or Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	Council	
2. The determination of an appeal against any decision made by or on behalf of the authority	Council	The relevant non-executive Committee, unless expressly specified within the terms of reference elsewhere.
3. The conduct of best value reviews in accordance with the provisions of any order for the time being having effect under Section 5 of the Local Government Act 1999.	The relevant Overview and Scrutiny Committee	
4. Any function relating to contaminated land	Council	Licensing and Registration Committee and further delegation to Corporate Director (Operations and Delivery)
5. The service of an abatement notice in respect of a statutory nuisance	Council	Licensing and Registration Committee and further delegation to Corporate Director (Operations and Delivery)
6. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 shall apply in the authority's area	Council	Licensing and Registration Committee

7. Any function under a local Act, other than a function specified under Regulation 2 or Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000	Council	Licensing and Registration Committee and further delegation to Corporate Director (Operations and Delivery)
8. The investigation of any complaint as to the existence of a statutory nuisance	Council	Licensing and Registration Committee and further delegation to Corporate Director (Operations and Delivery)
9. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land	Council	Deputy Chief Executive & Corporate Director (Place and Wellbeing)
10. The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Council	Chief Executive and All Corporate Directors
11. The appointment of any individual – (a) to any office other than an office in which they are employed by the authority; (b) to any body other than – (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body. and the revocation of any such appointment.	Council	Chief Executive
12. The making of agreements with other local authorities for the placing of staff at the disposal of those authorities	Council	Chief Executive

Schedule 2

Responsibility for Council (Non-Executive) Functions

GENERAL MATTERS/PRINCIPLES

Detailed below are the general matters/principles which underpin the Council's scheme of delegation in respect of non-executive functions.

1. The Council is responsible for determining the scheme of delegation for all non-executive functions.

2. Powers and duties of Non-Executive Committees are subject to the general instructions which contain the framework within which such delegations must be exercised as follows:-

   (a) Performed on behalf of and in the name of the Council;
   (b) Within their areas of responsibility and limits as set out in the Constitution subject to the action being within the Council's Budget and Policy Framework;
   (c) Subject to the directions of the Council and of the Cabinet or Non-Executive Committee as appropriate;
   (d) Subject to powers and duties reserved for confirmation by the Council;
   (e) In accordance with the Council's Financial Procedure Rules and Procurement Procedure Rules;
   (f) Delegate, as appropriate, matters to:

      (i) a Sub-Committee or panel;
      (ii) to an Officer in consultation with the Chairman or Vice-Chairman of a Committee, Sub-Committee or panel, as appropriate; or
      (iii) an Officer.

3. Non-Executive Committees have the power to discharge those functions within their areas of responsibility, with the exception of decision-making reserved to full Council.

4. The tables within this Schedule detail functions retained for discharge by full Council and which of the Council's Committees are responsible for discharging those functions, set out in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) which are relevant to the functions of Tendring District Council, that cannot be the responsibility of the Council's Executive (the Cabinet) and the Appendix to Part 3 of the Constitution. These tables also identify those functions which have been delegated to Officers.
5. The Council may by resolution at any time vary, enlarge, restrict, or reduce any non-executive function, power or duty referred to a Committee, Sub-Committee or Officer.

6. The Chief Executive is authorised to deal with any matter on exceptional grounds of urgency, following consultation with the Leader of the Council or Deputy, the Chairman and Vice-Chairman of the appropriate Committee in respect of non-executive matters.

7. The delegation of powers to Officers is underpinned by the principle and culture of consultation and liaison with Members, as appropriate and the ability for Officers to refer matters to the relevant decision making body, where it is felt that this is appropriate due to the nature of an issue in addition, to the legal obligations to record the decision in the required format.

8. The express authorisations to Officers set out in this Schedule are in addition to the normally accepted powers and duties of Officers to deal with matters of routine occurrence falling within the scope of their departmental responsibilities as set out in Article 12 which includes all present and future legislation related to the functions of the service and nothing in this Schedule shall derogate from any statutory powers or duties conferred or imposed directly on an Officer of the Council.

9. In cases where matters are delegated to Officers, but must also be discharged in consultation with the Chairman of the relevant Committee, and in cases where the Chairman is not available, the Vice-Chairman of the Committee is to be consulted. In instances, where there is disagreement between the Officer and the Chairman the matter should be reported to a meeting of the relevant Committee for consideration and determination. Furthermore, an Officer with delegated powers to discharge a function, or the Member being consulted has the option to refer the matter to a meeting of the relevant Committee for determination where this is felt to be necessary and/or appropriate.

10. All delegations to Officers are made to the Corporate Directors, unless expressly indicated otherwise. Any Corporate Director is empowered to exercise any of the powers of another Corporate Director, where this is necessary, subject to the provisions set out in paragraph 13.

11. The Corporate Directors are Designated Officers for the purposes of legislation within their respective service areas as set out in Part 8 of the Constitution and have the power to authorise other Officers of the authority, as Designated Officers and authorised persons for purposes, relating to present and future legislation falling within their areas of responsibility.

12. Any authority granted to the Chief Executive or a Corporate Director, unless otherwise indicated, may be exercised by an officer with appropriate qualifications authorised by a Corporate Director in writing for that purpose. The relevant Corporate Director will maintain a record of such authorisations, a central record of which will be kept by the Monitoring Officer and available for inspection.

13. Any authority which under statute or best practice guidance should only be discharged by Officers with a specific level of qualification must only be conferred to and discharged by such Officers. Furthermore, where the matter relates to a statutory power or duty conferred or imposed directly on an officer of the Council, only that Officer may discharge the function.

14. The Chief Executive has authority to exercise any function delegated to Officers, except where an Officer with appropriate qualifications must only discharge such a delegation or where the

matter relates to a statutory power or duty conferred or imposed directly on an Officer of the Council.

15. The Monitoring Officer shall:-

    (i) Determine any conflict between any two or more Officers acting under any authorisation; and

    (ii) In any case of uncertainty, and having considered relevant legislation, determine whether any matter falls within the remit of the Council, the Cabinet, a Committee or an Officer of the Council.

16. In the event of a change to the corporate structure of the Council, the responsibility for issues delegated to each Corporate Director shall be amended accordingly and will take immediate effect. The relevant amendments to this scheme of delegation should be made in the Constitution as soon as possible.

17. All Corporate Directors are authorised in consultation with the Assistant Director (Governance) to take all steps in connection with any legal proceedings, in respect of any function under the jurisdiction of a Portfolio Holder including the commencement or defence of, withdrawal, settlement or compromise of any such proceedings.

18. All Corporate Directors are authorised in consultation with the Assistant Director (Governance) to appear on the Council's behalf in any legal proceedings, under the jurisdiction of a Portfolio Holder, before all courts, tribunals and inquiries.

RESPONSIBILITY FOR COUNCIL – NON EXECUTIVE FUNCTIONS		
Committee	**Functions and Terms of Reference**	**Delegated Functions**
Full Council	**Those functions retained for responsibility by Full Council as set out in Article 4 of the Constitution and the following specific functions as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.** **D. Discharge the following Functions relating to Elections:** • Duty to appoint an Electoral Registration Officer • Power to dissolve Parish Councils • Power to make orders for grouping parishes, dissolving groups and separating parishes from groups • Duty to appoint Returning Officer for local government elections • Power to fill vacancies in the event of insufficient nominations • Power to submit proposals to 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 • Duty to consult on change of scheme for elections and associated powers under the Local Government Public Involvement and Health Act 2007	**Chief Executive in consultation with the Council Chairman:** 1. Agreeing the scale of fees payable at elections at District and Parish Councils, referenda and Parish Polls. **Chief Executive:** 1. Returning Officer at Local Elections 2. Power to assign Officers in relation to requisitions of the Registration Officer. 3. To divide constituency, electoral divisions and wards into polling districts and designate their polling places 4. Powers in respect of holding of elections 5. Power to pay expenses properly incurred by Electoral Registration Officers 6. Duty to declare vacancy in office in certain cases

	E. The discharge of the following functions relating to the Name and Status of Areas • Power to change the name of the district or parish • Power to petition for a charter to confer borough status **EB. Discharge the Duties, Functions and Powers relating to Community Governance** **F. Power to Amend, Revoke or Re-enact Byelaws** **G. Power to Promote or Oppose Local or Personal Bills** **Discharge of the following miscellaneous functions – Part II:** • Power to make standing orders (this includes amendments to the Constitution) • Power to make standing orders as to contracts • Duty to make arrangements for the proper administration of financial affairs • Power to appoint Officers for particular purposes (appointment of "Proper Officers") • Duty to designate Officer as the head of the authority's Paid Service, and to provide staff, etc. • Duty to designate Officer as the Monitoring Officer, and to provide staff, etc. • Duty to provide staff etc. to person nominated by Monitoring Officer • Power to make payments or provide other benefits in cases of maladministration **Other matters** Those as set out in Article 4 of the Constitution together with: • Prepare and approve a Pay Policy Statement for the financial year in accordance with Chapter 8 of the Localism Act 2011.	7. Duty to give public notice of a casual vacancy 8. Power to make temporary appointments to parish councils 9. Regrading posts, restructuring and determining staff levels (except where Section 4 of the Local Government Act 1989 applies and it is appropriate for the full Council to consider any proposals of the Head of Paid Service in this regard) 10. Power to authorise compensation payments up to a maximum of £5,000 as a result of Local Governance & Social Care Ombudsman or Housing Ombudsman recommendations or by virtue of the Corporate Complaints Procedure **Chief Executive or Monitoring Officer:** 1. The Proper Officer before whom a Member's formal Declaration of Acceptance of Office may be made. 2. The appointment or removal of any individual to/from a Committee, Sub-Committee, panel or working party at the request of the relevant Group Leader. 3. The advertisement of vacancies for the position of Independent Person(s) and Independent

	• The appointment of the Chief Executive • On the recommendation of the Human Resources and Council Tax Committee: (a) the dismissal including redundancy, in accordance with the statutory provisions, of the Chief Executive, Chief Finance Officer or Monitoring Officer (following the outcome of an Independent Panel) (b) The voluntary early retirement and voluntary redundancy of the Chief Executive (c) The retirement on grounds of ill health of the Chief Executive on the recommendation of the Council's medical advisor (d) the terms and conditions of the Chief Executive	Remuneration Panel members, the review of applications received, the interview of suitable candidates and the making of recommendations to Council as to who should be appointed, are delegated to the Chief Executive and Monitoring Officer.
Committee	**Functions and Terms of Reference**	**Delegated Functions**
Audit Committee	*The discharge of the following **miscellaneous functions – Part II** as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities Regulations) (England) 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.* **Duty to approve the authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be).** **Additional roles and functions of the Committee are as set out below:** 1. To provide independent assurance of the adequacy of the risk management framework and the associated control environment; 2. To provide independent scrutiny of the Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment; 3. Considers the annual budget for the internal audit service as part of the Council's budget setting process; and 4. To oversee the financial reporting process: **Audit Activity** 1. Considering the Internal Audit Manager's annual report and opinion and a	**Section 151 Officer and** Internal Audit Manager The provision of advice and support to the Audit Committee on all aspects of its functions and duties

	summary of internal audit activity (actual and proposed), and the level of assurance it can give over the Council's corporate governance arrangements. 2. Considering reports on the operation of internal audit and summaries of specific internal audit reports where requested. 3. Considering reports from internal audit on agreed recommendations not implemented within a reasonable timescale. 4. Assessing external auditor and external regulatory reports and monitoring any quality improvement programmes where required. Comments are provided to Cabinet as appropriate. 5. Commenting on the scope and depth of external audit work and ensuring it gives value for money. 6. Liaising with the Audit Commission in regard to the appointment of the Council's external auditor. **Regulatory Framework** 7. Reviewing significant issues referred by the Chief Executive, Cabinet or any Council Committee (subject to the availability of resources within the approved audit plan). 8. Monitoring the effective development and operation of risk management and corporate governance. 9. Monitoring Council policies on "Raising Concerns at Work", the whistleblowing policy and the anti-fraud and corruption strategy. 10. Overseeing the production of the Code of Corporate Governance, including the Statement of Internal Control. 11. Considering the arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice. 12. Considering the Council's compliance with its own and other published standards and controls (other than those covered by the Standards Committee).	

	Accounts 13. Reviewing and approving the annual statement of accounts. 14. Considering whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council. 15. Receiving the external auditor's report to those charged with governance.	
Committee	**Functions and Terms of Reference**	**Delegated Functions**
Planning Policy and Local Plan Committee	To exercise the Council's functions relating to overseeing the preparation of the Local Plan* and ensuring it meets the "tests of soundness" from national and planning policy. The exercise of the Council's functions, powers and duties in relation to the following: 1. To oversee the preparation of the new Tendring District Local Plan* to ensure that it meets the "tests of soundness" set out in the National Planning Policy Framework. 2. To ensure that the Local Plan* is "positively prepared", based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development. 3. To ensure the Local Plan* is "justified", promoting the most appropriate strategy for growth, when considered against reasonable alternatives, based on proportionate evidence. 4. To ensure that the Local Plan* is "effective", being deliverable over the plan period and based on effective joint working on cross-boundary strategic priorities.	

	5. To ensure that the Local Plan* is "consistent with national policy" enabling the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework. 6. To ensure that the Council effectively complies with the statutory duty to co-operate. 7. To consider and recommend the content of the Local Plan*, in consultation with the Cabinet, for consideration and formal approval by Full Council for either public consultation (preferred options or pre-submission versions), submissions to the Secretary of State (to be examined by a Planning Inspector), or final adoption (following receipt of the Planning Inspector's report). 8. To recommend Supplementary Planning Documents (SPDs) and other planning documents to Cabinet for public consultation and final adoption. 9. To approve the preparation, commissioning and subsequent publication of studies, surveys and other technical documents that form part of the "evidence base" needed to justify the content of the Local Plan*, Supplementary Planning Documents (SPDs) and other planning documents. 10. To scrutinise, note and understand the recommendations and conclusions of the "evidence base" to ensure that it provides a robust platform upon which to base policies and proposals in the Local Plan*, SPDs and other planning documents. 11. To approve the publication of the Annual Monitoring Report (AMR) each year and to consider whether or not it highlights development trends that may or may not require changes to policies or proposals in the Local Plan*, SPDs or other planning documents. 12. To consider representations submitted in response to public consultation exercises on the Local Plan*, SPDs or other planning documents and consider the need for any changes	

	to these documents in response to any issues that they raise. 13. Approve the work programme required for the Committee to undertake its functions effectively and in a timely manner. 14. Refer to Cabinet any recommendations in respect of the Council's overall strategy, policies and guidance, where functions are the responsibility of the Cabinet, such as Supplementary Planning Documents. 15. Approve for recommendation of non-statutory planning policy and guidance to be considered by the Council, the Planning Committee, Cabinet (for executive functions), officers in the discharge of its statutory planning functions, including (but not limited to) avoiding detriment to local neighbourhoods (as long as they are not contrary to the National Planning Policy Framework). **The Local Plan can consist of one or more "Development Plan Documents" which could include one document for the majority of the Tendring District and a separate document, if necessary, prepared jointly with Colchester Borough Council, for any major development crossing the Tendring/Colchester border*	

Committee	Functions and Terms of Reference	Delegated Functions
Planning Committee	The discharge of the Town and Country Planning Conservation functions as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to part 3 of the Constitution. Additional roles and functions of the Committee are as set out below: 1. Any formal comment or view on applications or proposals to be determined by Essex County Council, any Statutory Body and government departments relating to matters within the remit of the Committee.	1. All planning (including all prior approval applications), enforcement, building control and conservation matters delegated to the Director (Planning & Community) **except** in relation to the determination of certain planning applications as detailed below for determination by the Committee: (i) Officer recommendation for approval is materially contrary to adopted national and/or adopted local policy, with the exception of where the initial departure within two years has already been agreed by reason of a previous grant of planning permission or prior approval (extant and not extant) and the application represents a subsequent application for either the same, similar or alternative development on the same red line site which would not be considered by the Director (Planning & Community) to alter the previous material planning considerations. (ii) Officer recommendation of approval is contrary to a previous refusal by the Planning Committee in the last two years, where the policies, site and proposed development remain substantially unchanged.

		(iii) Officer recommendation of approval and the application should be referred to the Secretary of State under a Direction(s) or “call in”. (iv) The applicant is the Council or someone acting as applicant on the Council’s behalf or in respect of Council owned land unless the application is recommended for refusal. (v) The applicant is a Member of the Council or a member of permanent staff employed by TDC within Planning Services or Legal Services, or they are one of the Council’s senior managers as determined by the individual Services, and there is an Officer recommendation for approval. (vi) Within 35 days of the commencement of formal consultation, a written request is received from a Tendring District Councillor, who is not a serving member of the Planning Committee (unless the member of the Planning

		Committee is making that request solely in their capacity as a Ward Member for the application in question), in accordance with the Member Referral Scheme (*), requesting that the planning application should be brought before the Planning Committee for determination and giving material planning reasons for that request. Call in arrangements do not apply to householder applications and any application type that would result in deemed approval if not determined in time, including prior approval applications. (vi) Within 35 days of the commencement of formal consultation, a written request is received from a serving member of the Planning Committee, in accordance with the Member Referral Scheme(*), requesting that the planning application should be brought before the Planning Committee for determination and providing compelling reasons why it could be considered of significant importance to the wider District or Planning Policy. Call in arrangements do not apply to householder applications and any application type that would result in deemed approval if not determined in time, including prior approval applications. (*) Scheme to be approved by Full Council.

		(viii) The Director (Planning & Community), or other authorised Officer, following consultation with the Chairman of the Planning Committee and the Planning Solicitor, can allow a Member's referral request that is received after the 35 day cut-off if they are satisfied that the request could not have reasonably been submitted before the deadline and that in all other respects it meets the requirements for a valid referral. *(NOTE: an Officer decision will be required in exercising this discretion to allow or refuse with reasons being produced and published to the Council's website)* (ix) Any application which the Director (Planning & Community), in their professional opinion, taking into account the written representations received, plans and policies and other material considerations decides should be referred to the Planning Committee because it raises more than significant local issues.

		2. The Director (Planning and Community), in consultation with the Chairman of the Planning Committee, may extend the time for the completion of a Section 106 Agreement for two further periods of six months at which point it would need to return to the Planning Committee for a decision as to whether to further extend the time or instead to now refuse planning permission on the grounds that the Section 106 Agreement had not been completed.
	The discharge of the **Miscellaneous functions – Part 1 – relating to Public Rights of Way, within the District Council's responsibility** *as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.*	All public rights of way matters delegated to the Corporate Director~~)~~ (Operations and Delivery)
	The discharge of the following **Miscellaneous functions – Part II – relating to hedgerows, trees and hedges** *as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution*	All hedgerows, trees and hedges matters delegated to the Director (Planning and Community)

Committee	Functions and Terms of Reference	Delegated Functions
Human Resources and Council Tax Committee	Human Resources *The discharge of the following* ***Part II – miscellaneous functions*** *as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended), and as detailed in Appendix 1 to Part 3 of the Constitution* **Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal).** **Additional roles and functions of the Committee are as set out below:**	**Chief Executive:** Regrading posts, restructuring and determining staffing levels (except where Section 4 of the Local Government and Housing Act 1989 applies and it is appropriate for the full Council to consider any specific proposals of the Head of Paid Service in this regard).
	1. Decision-making on key Human Resource and Personnel issues not reserved by the Council or delegated to officers. 2. Strategic Overview and Monitoring of General Staffing Profile and Data through assessment and consideration of periodical statistical reports. 3. Agreement of key personnel policies, including but not exclusively: • Recruitment and Selection • Pay and Reward • Performance Management • Flexible Working and Work Life Balance • Equality and Diversity	Chief Executive in consultation with the Assistant Director (People): The approval of a redundancy or mutually agreed Settlement Agreement for dismissal of staff up to and including Management Team level. Any Corporate Director in consultation with the Assistant Director (People): 1.The exercise and performance of the Council's functions, powers and duties in relation to applications for extensions of sick pay entitlement

	• Discipline and Grievance • Managing Change • Human Resources and Organisation Development Strategy 4. The recommendation to Council of the terms and conditions of service, dismissal including redundancy, voluntary redundancy and voluntary early retirement of the Chief Executive. 5. The recommendation to Council of the retirement on the grounds of ill health of the Chief Executive on the recommendation of the Council's Medical Advisor. 6. The appointment and dismissal of and, disciplinary action against the Corporate Directors, Assistant Directors and Heads of Service. 7. Undertake the function of an advisory Independent Panel in accordance with the statutory provisions for the Chief Executive, Chief Financial Officer and Monitoring Officer (together with the Independent Persons).	2. The recruitment and appointment o permanent staff up to but not including the Corporate Directors above, in consultation with the Workforce Panel and in accordance with the Council's agreed procedures. Assistant Director (People) in consultation with the Corporate Director (Operations and Delivery) 1. Minor amendments to Human Resources Policies and Procedures necessary as a result of legislation, national guidance or best practice. 2. Approval of Pension Scheme related matters. The Chief Executive and Corporate Directors shall have authority to act in relation to all matters within their areas of responsibility in connection with management of staff including terms and conditions of employment and dismissal in accordance with the Council's Human Resources Policies and Staff Handbook as maintained on the Council's Intranet**.**

	<u>Council Tax</u> To exercise the Council's functions relating to the formal acceptance of Council Tax precepts from the major precepting authorities. The exercise of the Council's functions, powers and duties in relation to the Terms of Reference.	
Human Resources Sub-Committee	1. Forms part of the recruitment, dismissal and disciplinary process for the appointment of Senior Officers (as defined in Paragraph 3 of Part II of Schedule 1 of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended). 2. Form a panel to undertake interview of applicants for Senior Officer posts who have successfully been shortlisted and undertaken necessary technical interviews and assessments. 3. The Panel will be comprised of 3 members normally consisting of: • a Portfolio Holder, as determined by the Leader of the Council. The Leader will have the right to appoint a substitute for the Portfolio Holder if they will be unable to attend or if otherwise necessary; • the Chairman or Vice-Chairman of the Human Resources & Council Tax Committee; and • a named committee member from a political group that is not represented on the Cabinet. 4. The Panel must take into account the views and professional advice given by the relevant officers before an offer of appointment can be made.	Assistant Director (People)

	5. The Panel will notify the Assistant Director (People) of the name of the person to whom the post is to be offered and any other matter relevant to the appointment. 6. The Panel will determine whether any objection received from Cabinet through the Leader is valid and the offer of appointment should be made. 7. In the case of the Chief Executive and Monitoring Officer, the Panel will recommend to Council to approve the appointment before an offer is made.	• Notify all members of Cabinet of the name of the person to whom the post is to be offered and any other matter relevant to the appointment. • Receive any objection from Cabinet through the Leader to the appointment within the 3 day period for objections.
The Chief Officers' Employment Appeals Sub-Committee	1. To consider Employment Appeals under the Council's Disciplinary Policies and Procedures relating to the Council's Statutory Officers and Non-Statutory Chief Officers (as defined within the Council's Pay Policy Statement), and in accordance with the Handbooks and Conditions of Service as applicable to those posts at the relevant time. 2. The Chief Officers' Employment Appeals Sub-Committee ("Appeals Sub-Committee") will be comprised of 3 members normally consisting of: (i) a Portfolio Holder, as determined by the Leader of the Council. The Leader will have the right to appoint a substitute for the Portfolio Holder if they will be unable to attend or if otherwise necessary; (ii) the Chairman or Vice-Chairman of the Human Resources & Council Tax Committee; (iii) and a named committee member from a political group that is not represented on the Cabinet. 3. The Appeals Sub-Committee must not compromise of any Member who formed part of the Human Resources Sub-Committee when it performed its functions in relation to the dismissal and disciplinary process for the Statutory and Non-Statutory Chief Officers (as defined in Paragraph 3 of Part II of Schedule 1 of the Local Authorities (Standing Orders) (England) Regulations 2001.	

	4. No Member can sit on the Appeals Sub-Committee unless they have undertaken the appropriate training for the role to be fulfilled. 5. The Appeals Sub-Committee will follow the Appeal Procedure as contained within the Council's Policies and Procedures ensuring that the necessary process follows employment requirements. 6. The Appeals Sub-Committee must take into account the views and professional advice given by the relevant officers before a final decision is made, with such advice being recorded within the Decision. 7. The Decision of Appeals Sub-Committee maybe produced in any subsequent proceedings such as an Employment Tribunal. 8. All meetings of the Appeals Sub-Committee will be exempt from public attendance under paragraphs 1,2 and 3 of Schedule 12A of the Local Government Act 1972 due to the nature of the business conducted.	
Committee	**Functions and Terms of Reference**	**Delegated Functions**
Licensing and Registration Committee	***Functions relating to licensing, registration (B), Health and Safety at Work (C) and Smoke-free premises (FA) as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.*** **Additional roles and functions of the Committee are as set out below:** • Deciding whether to make a change to the Hackney Carriage Fare Scale operative within the Tendring District having considered the representations received in response to the Public Notice duly given pursuant to Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976;. • Recommending the Licensing Policy Statement to full Council and the Gambling Statement of Licensing Policy to Cabinet; • Power to consider, consult and consider representations in respect of an Early	1. All licensing and registration functions are delegated to the Miscellaneous Licensing Sub Committee or the Premises/Personal Licences Sub-Committee as detailed below and otherwise to the Corporate Director – Law and Governance except for determining standard licensing conditions and determining or recommending proposed policies, which remain with the Committee. 2. All functions relating to Health and Safety at Work and Smoke Free Premises are delegated to the Corporate Director (Operations and Delivery). 3. The initial, in principle, consideration of a proposal

	Morning Restriction Order (EMRO) under Sections 172A to 172E of the Licensing Act 2003 and to recommend implementation or rejection of application for EMRO to Full Council; and • Power to consult and consider representations in respect of Late Night Levy (LNL) Provisions under Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 and to recommend implementation or rejection of an application to introduce LNL to Full Council. *The discharge of the following* ***Part II – Miscellaneous Functions*** *as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution:*	received for a change to the Hackney Carriage Fare Scale operative within the District and decision to give public notice (pursuant to Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976) of the Council's intention to amend the Fare Scale is delegated to the Corporate Director – Law and Governance in consultation with the Chairman of the Committee. 4. Whilst not limiting the delegation in 1. above, the Corporate Director – Law and Governance shall be authorised to:- (a) make minor changes to relevant policies arising from legislation, changes
	• Power to make closing order with respect to take away food shops . In addition the following powers and duties: • The setting of any fees and/or charges payable to the Council for the issue of any licences where the Council has discretion over such fees and/or charges) or otherwise in relation to any of the functions falling within the remit of the Licensing and Registration Committee and its Sub-Committees. • The consultation on draft policies relating to matters within the remit of this Committee and the development of proposals to be submitted for determination of Cabinet and/or Council.	to the organisational structure of the Council, or decisions of the Council; (b) make such arrangements in respect of the exercise by the Licensing Authority of licensing and registration functions in its role as a Responsible Authority; and (c) suspend a licence for the non-payment of fees or issuing of a Closure Order for a premises under Section 19 of the Criminal Justice and Police Act 2001 (sale of alcohol otherwise than in accordance with an authorisation)

Committee	Functions and Terms of Reference	Delegated Functions
Miscellan-eous Licensing Sub-Committee	To consider and determine matters relating to all licences, consents, registrations and certificates that fall within the terms of reference of the Licensing and Registration Committee, except where: 1. The function relates to the Licensing Act 2003 and/ or the Gambling Act 2005; or 2. The function has been delegated to Officers of the Council. In addition the Sub-Committee will exercise the following powers and duties: 3. Consideration for recommendations to local Highway Panel and Cabinet on: • installation of new taxi ranks and amendments/removals to existing taxi ranks. 4. Consider appeals or objections received against the Council's Street Trading Policy or refusal of consent by Officers. 5. Consider appeals or objections received against Officers' refusal of Street or House Collection applications.	All matters are delegated to the Corporate Director – Law and Governance except in circumstances where the matter: (i) remains with the Committee or Sub-Committee or (ii) officers are recommending approval contrary to a relevant adopted licensing policy.

Committee	Functions and Terms of Reference	Delegated Functions
Premises/ Personal Licences Sub-Committee	1. To consider applications for licences where representations have been received and not withdrawn, and applications for the review of licences, covered by the Licensing Act 2003 as follows: (i) Application for Premises Licence (ii) Application for Provisional Statement (iii) Application for Variation of Premises Licence (iv) Application to vary Designated Premises Supervisor following police objection (v) Application for transfer of Premises Licence following police objection (vi) Consideration of police objections made to interim Authority Notice (vii) Determination of application for Club Premises Certificate (viii) Determination of application to vary Club Premises Certificate (ix) Decision to give counter notice following police objection or environmental health authority objection to temporary event notice (x) Application for grant of personal licence following police objection (xi) Revocation of Licence where convictions came to light after grant etc. (xii) Application for review of Premises Licence (xiii) Application for review of Club Premises Certificate (xiv) Review following Closure Order	**To the Corporate Director – Law and Governance**: 1. All Council functions, powers and duties in relation to the Licensing Act 2003 and the Gambling Act 2005 which do not remain the specific function of the Committee or Sub-Committee.
	2. To consider applications for licences, where representations have been received and not withdrawn, and applications for the review of licences, covered by the Gambling Act 2005, as follows: (i) Application for Premises Licence (ii) Application for variation of Licence (iii) Application for transfer of a Licence (iv) Application for a Provisional Statement (v) Review of a Premises Licence (vi) Application for Club Gaming/Club Machine Permit (vii) Cancellation of a Club Gaming/Club Machine Permit (viii) Decision to give a Counter Notice to a Temporary Use Notice (Section 224) (ix) Matters referred to the Sub-Committee by Officers, notwithstanding the delegations set out opposite. (x) Application for Prize Gaming Permit (xi) Application for Family Centre Gaming Machine Permit	

Committee	Functions and Terms of Reference	Delegated Functions
Standards Committee	1. To promote and maintain high standards of conduct by Members and Co-opted Members of the authority; 2. To develop a culture of openness, transparency, trust and confidence between Members and in Member and Officer relationships and to embed a culture of strong ethical and corporate governance at all levels of the Council; 3. To advise the Council on the adoption or revision of the Members' Code of Conduct; 4. To advise, train or arrange training on matters relating to and assisting Members, Co-opted Members and Town and Parish Councillors on observing the Members' Code of Conduct; 5. To approve procedures for the conduct of hearings into complaints against Members;	**Delegation to Monitoring Officer:** 1. Deal with complaints against Members and co-opted Members of the Council and/or any Town or Parish Council in the Tendring District alleging a breach of the Members' Code of Conduct of the Council/Town or Parish Council ("Code") in accordance with the Complaints Procedure.

	6. To advise the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council; 7. To receive reports from the Monitoring Officer and assess the operation and effectiveness of the Members' Code of Conduct and the other elements of the Standards Framework; 8. To inform Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints; 9. To hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to Section 33 of the Localism Act 2011; and 10. To maintain oversight of the Council's arrangements for dealing with complaints delegated to Standards Town and Parish Sub-Committee.	2. Assess complaints in accordance with the Assessment Criteria and may consult with a duly appointed Independent Person and determine whether the complaint: • Merits no further action • Merits early informal conciliation • Merits further investigation Should due to exceptional circumstances be referred to the Standards Committee or Sub-Committee for consideration for further investigation 3. Determine the format of the Complaints Form, Decision Notices and Procedure Flowchart and review where necessary.
	Proceedings: 1. To conduct proceedings in accordance with the Complaints Procedure, giving due consideration to the Monitoring Officer's advice and guidance, and following the principles of natural justice and innocent until proven otherwise; 2. To receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the assessment criteria and Complaints Procedure;	4. Commission external resources to investigate, undertake consultation with an Independent Person and report on any complaints relating to Member conduct. 5. Grant dispensations in compliance with Section 33(a) to (e) of the Localism Act 2011.
	3. In accordance with the Hearings Procedure, to hear and determine complaints about Tendring District Council Members and Co-opted Members referred to it by the Monitoring Officer; and 4. Any determination by the Committee which is contrary to the recommendation of the Monitoring Officer will include detailed reasons. The decision of the Committee will also be reported to the next meeting of full Council.	6. Submit reports to the Standards Committee or Sub-Committee on the actions taken under these delegated powers and to provide advice and support making recommendations to the relevant Committee on any matters relating to the promotion and maintenance of high standards of conduct.

Schedule 3

Responsibility for Executive Functions

EXECUTIVE FUNCTIONS ARE THE RESPONSIBILITY OF THE CABINET.

1. ROLE AND RESPONSIBILITIES

1. The general roles and responsibilities of the Cabinet are as follows:-

   (i) To make recommendations to the District Council with regard to the formulation of its policy framework, including the setting of the budget and council tax levels.
   (ii) To advise the District Council on all matters requiring a decision outside of the Council's agreed budget and policy framework.
   (iii) To discharge in accordance with the District Council's policy framework all functions of the Council, except those functions which cannot, by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and other legislation, be the responsibility of the Cabinet. Such functions are the responsibility of the Council and its various Committees as set out in Schedule 2 to Part 3 of the Constitution.
   (iv) To deal with those "local choice functions" which have been delegated to the Cabinet by the Council as detailed in Schedule 1 of Part 3 of the Constitution.

2. RESPONSIBILITIES OF THE LEADER OF THE COUNCIL

1. The Leader of the Council is responsible for the overall operation of the Council's portfolios through effective management of their Cabinet.
2. To ensure effective communication of Cabinet business including appropriate liaison with Overview and Scrutiny.
3. To be the leading voice of the Council on all executive functions and for overall policy.
4. To be the member representative for executive functions of the Council working with the Council's partners and stakeholders, on statutory bodies, the voluntary sector, the business community and other national and local organisations.
5. Ensure that their actions are taken in accordance with Section 3 below when making formal decisions.

3. GENERAL PRINCIPLES REGARDING DECISION MAKING BY THE CABINET

1. The Leader of the Council is responsible for approving the delegation of executive functions to either:

   (i) The Cabinet collectively (see 4.1 below);
   (ii) An individual Member of the Cabinet (Portfolio Holder) (see 4.2 below);

(iii) A Working Party of the Cabinet (known as a Portfolio Holder Working Party);
(iv) An Officer, in consultation with the relevant Portfolio Holder(s); or
(v) An Officer.

Executive functions can also be delegated to, and discharged by an area committee or another local authority or jointly with one or more local authorities.

No Member or Committee of the Cabinet to whom the Leader of the Council has delegated a function may delegate on to another Member or Committee.

2. Powers and duties of the Cabinet and Portfolio Holders under their delegated authorisation must be:-

(i) performed on behalf of and in the name of the Council;
(ii) subject to the directions of the Council and of the Cabinet as appropriate;
(iii) subject to powers and duties reserved for confirmation by the Council as set out in Article 4 of the Constitution;
(iv) within the limits of the Council's approved policy framework and budget;
(v) statutory provisions and restrictions;
(vi) taking into account Officer's advice; and
(vii) in accordance with the Council's approved Policies, Procedures, Protocols and Codes of Conduct.

3. Absence of the Leader of the Council:

The Portfolio Holder designated by the Leader as their Deputy may exercise the functions of the Leader of the Council in the absence of the Leader.

4. The Leader of the Council may exercise any of the powers delegated to the Cabinet:

a. Following a resolution of the Cabinet (subject to the Constitution), or
b. In cases of urgency, in consultation with the Monitoring Officer and/or Section 151 Officer.

In cases of urgency the decision of the Leader of the Council will be recorded and published in accordance with the Constitution. The Leader of the Council will also be required to make a public statement at the next formal meeting of the Cabinet which will explain why they had taken the decision as a matter of urgency.

5. The Leader of the Council may exercise any of the powers delegated to a Portfolio Holder:

a. In their absence
b. At their request
c. In cases of urgency, in consultation with the Monitoring Officer and/or Section 151 Officer, or
d. As the Leader so determines.

6. Where decisions are taken by individual Portfolio Holders under delegated powers the following principles and decisions shall apply:

(a) All delegations to Portfolio Holders will be exercised after consultation and written advice from all relevant Officers.

(b) In cases where there is a significant difference of opinion between Portfolio Holders, the issue will be referred to the Leader of the Council in consultation with the Chief Executive and if necessary to the Cabinet for decision.
(c) The exercise of delegations by Portfolio Holders shall be within the Scheme of Delegated Powers of the Portfolio Holders.
(d) A Portfolio Holder shall not delegate any powers to an Officer unless such delegation is approved by the Leader of the Council.
(e) A Portfolio Holder may, if they consider it appropriate, elect to refer up to the Cabinet, the exercise of any power delegated to them.

7. In cases where there is an overlap in responsibilities between Portfolio Holders, the Leader of the Council shall determine which Portfolio Holder(s) should make the decision.

8. The Monitoring Officer shall in any case of uncertainty and after having considered relevant legislation, determine whether any matter falls within the remit of the Council, the Cabinet, a Committee or an Officer of the Council.

9. A record of Portfolio Holder decisions shall be maintained and published, as set out in Article 7 of the Constitution.

10. In the event of a change to the delegations of Executive Functions by the Leader or to the corporate structure of the Council by the Chief Executive, the changes will take immediate effect. The relevant amendments to this scheme of delegation should be made in the Constitution as soon as practicable.

4.1 THE CABINET COLLECTIVELY

The following details the broad principles of issues that are the responsibility of the Cabinet and which shall be considered by the Cabinet collectively at public meetings:

TERMS OF REFERENCE

To be responsible for Community Leadership for the District of Tendring. To lead the preparation of the District Council's policies and budget. To take decisions on resources and priorities together with other stakeholders and community partners as appropriate, and to deliver and implement the budget and policies decided by full Council. To be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

1. Developing and making recommendations to the Council in respect of the plans and strategies that form the Council's policy framework.

2. Formulations of budgets and other statutory financial requirements for submission to Council.

3. Monitoring the Council's budgetary and overall financial position.

4. Decisions as required by the Council's Financial and Procurement Procedure Rules including transactions in respect of the Final Accounts.

5. Decisions outside of the Budget or Policy Framework in accordance with the Procedure Rules.

6. The approval of strategies, policies, plans and guidance which are the responsibility of Cabinet and are not delegated elsewhere within the Constitution.

7. Consideration and approval of the acquisition and disposal of property in accordance with the Property Dealing Procedure, legislation and specific consents.

8. Consideration, approval and determination of objections, under Section 123 of the Local Government Act 1972, received in respect of proposed disposals of land used as public open space. All such consideration and determination to be at a public meeting of the Cabinet.

9. The approval of planning policy matters that are the responsibility of the Executive such as Local Development Orders and Neighbourhood Plans (including statutory public consultations thereon).

10. Issues delegated to individual Portfolio Holders that in their opinion a collective decision by the Cabinet is required.

11. Issued delegated to an Officer that in the opinion of the Management Team a collective decision by the Cabinet is required.

12. Reviewing from time to time the Council's Constitution.

4.2 INDIVIDUAL MEMBERS OF THE CABINET (PORTFOLIO HOLDERS)

4.2.1 Responsibilities

The Leader of the Council has delegated overall strategic responsibilities for service areas to members of the Cabinet, known as Portfolio Holders, which are set out in the table below:

Portfolio Holder	Overall strategic responsibilities with Lead Officer(s) named for reference	
LEADER **ALSO PORTFOLIO HOLDER RESPONSIBLE FOR:**	• **Corporate Vision** • **Community Leadership** • **Countywide Leadership role** • **Representative role at County, Regional and National Level** *Officers: Ian Davidson, Chief Executive, Lisa Hastings (Corporate Director – Law and Governance) & Monitoring Officer) and Keith Simmons (Assistant Director Corporate Policy and Support)*	• Corporate priorities and Corporate Planning • Corporate Strategic Performance Management

CORPORATE FINANCE AND GOVERNANCE	• **Finance** *Officers: Richard Barrett (Corporate Director Finance and IT & S.151 Officer)* *and John Higgins (Head of IT and Corporate Resilience)*	• Financial Strategy • General Fund and Housing Revenue Account Annual Budget • Budget Management • Accountancy • Exchequer • Insurance • Treasury management and banking • Procurement strategy and central purchasing • Internal Audit • Corporate Health and Safety
	• **Revenues and Benefits** Officer: Richard Barrett, (Corporate Director Finance and IT & s.151 Officer)	• Administration of council tax and housing benefit • Business rates (NNDR) and reliefs • Local Council Tax Support Scheme • Cash Collection/Paypoint
	• **Legal and Governance** *Officers: Lisa Hastings* *Lisa Hastings and Will Lodge, Communications Manager*	• Legal advice and support to Council (re: executive and non-executive functions) • Legal services to departments • Regulation of Investigatory Powers Act 2000 – policy (compliance and co-ordination) • Corporate Communications
	• **Democratic Services** *Officers: Lisa Hastings and Keith Simmons*	• Council, Cabinet and Committee Services • Corporate Administration including programming meetings • Member support • Member Development • Corporate complaints • Ombudsman issues • Outside bodies appointments and support

	Overall strategic responsibilities with Lead Officer(s) named for reference	
DEPUTY LEADER **&** **ECONOMIC GROWTH REGENERATION TOURISM**	• **Economic Growth** *Officers: Lee Heley (Corporate Director place and Wellbeing) and Mike Carran (Assistant Director Sport, Culture and Health*	• Tendring for Growth • Economic Growth Strategy and representative on the North Essex Economic Board • Economic Partnerships • Business Engagement • Inward Investment • Business Support (employment and development) • Employability, Skills and apprenticeships linked to Business Growth & Vocational Skills agenda and Freeports (*working in conjunction with the Portfolio Holder for Partnerships – education and skills agenda)
	• **Freeports and Freeport East** *Officers: As above*	• Director of Freeport East appointed by the Leader
	• **Regeneration** *Officers: As above*	• Strategic Regeneration Programmes • Representative on Tendring Regeneration Board • Lead Portfolio Holder for delivery and administration of the Levelling Up Funds for: - *the Clacton Civic Quarter proposal and* - *the Capital Regeneration Project proposal for Dovercourt Town Centre Improvement Corridor.* • Delivery and administration of the Interventions included in Tendring District Council's Investment Plan for Shared Prosperity Fund • Town Centre Regeneration • Sunspot Covered Market

	• **Community Regeneration Partnership**	• Strategic Oversight Responsibility for the Community Regeneration Partnership (all TDC projects, in consultation with the relevant Portfolio Holder). • Strategic Oversight Responsibility for those CRP Projects being delivered by Partners: - *Improving bus infrastructure in Clacton and Jaywick* - *Fitting out the skills hub at the new Clacton Hub* - *Expanding the Tudor Fields – Jaywick walking route which would also serve as an evacuation route and for emergency vehicle access* - *Urgent Treatment Centre and Primary Care Facility* • Individual responsibility for the following CRP projects: - *Shopfront improvements in Clacton and Jaywick* - *Connecting the Town Centre to the seafront* - *Fitting out the Sunspot Centre with solar panels* - *Providing Community Transport Buses* - *"Cultural master planning" [as per government direction] – rather: a spatial strategy for Clacton*
	• **Tourism** *Officers: As above*	• Tourism Strategy • Tourism Events • Tourism Information and promotion • Airshow

ASSETS & COMMUNITY SAFETY	• **Corporate Asset Management** *Officers: Damian Williams Corporate Director (Operations and Delivery) and Andy White (Assistant Director Building and Public Realm)*	• Overview of the Property Programme • Overview and formulation of Assets Management Plan, Property Strategy and Property Office Procedures • Property Service providing property advice and support to service areas • Initiation and authorisation of property transactions in accordance with the Property Dealing Procedure • Public Conveniences • Street Furniture • Carbon Neutral Action Plan relating to Council's Assets
	• **Community Regeneration Partnership Projects**	• Individual Portfolio Holder responsibility, in consultation with the Portfolio Holder for Economic Growth Regeneration & Tourism for the following CRP projects: - *Repurposing Martello towers* - *Acquiring and repurposing disused town centre building for cultural use*
	• **Building Services and Facilities Management** *Officers: As above*	• Buildings advisory service • Council office and buildings policy including facilities management and maintenance • Depots • Office cleaning
	• **Bereavement** *Officers: As above*	• Crematorium and cemeteries

	• **Procurement and Social Value** *Officers: Lisa Hastings Corporate Director – Law and Governance (andMonitoring Officer) and Karen Townshend, Executive Projects Officer (Governance)*	• Procurement Strategy • Social Value Policy • Shared Procurement Service development • Central Purchasing
	• **Licensing – Executive Functions** *Officers: Lisa Hastings (Corporate Director - Law and Governance) & Monitoring Officer and Keith Simmons (Assistant Director Corporate Policy and Support*	• Overseeing licensing policy matters specifically under the Gambling Act 2005, but more widely (excluding under the Licensing Act 2003) including for taxis and private hire matters.
	• **Community Safety** *Officers: Damian Williams (Corporate Director Operations and Delivery)*	• Community Safety Partnership • Representative on the Essex Police, Fire and Crime Panel • Crime and Disorder Strategy • Serious Violence Duty • Safeguarding • Provision, maintenance and development of CCTV systems
	• **Civil Contingencies** *Officers: As above* *Officers: Richard Barrett, (Corporate Director – Finance and IT & s.151 Officer) and John Higgins (Head of IT and Corporate Resilience)*	• Provision of Emergency Planning • Business Continuity
ENVIRONMENT & ICT	• **Environment** *Officers: Damian Williams, Corporate Director (Operations and Delivery) and Tim R Clarke (Assistant Director for Housing and Environment)*	• Pest Control • Food, safety and hygiene • Water safety/quality • Pollution • Animal welfare • Public protection • Environmental Health • Port Health
	• **Refuse Collection and Cleansing**	• Household waste minimisation and collection

	Officers: As above	• Recycling maximisation and collection • Street cleansing • Dog Warden Service • Abandoned Vehicles • Unlawful car sales
	• **ICT** *Officers: Richard Barrett Corporate Director - Finance and IT & S.151 Officer) and John Higgins (Head of IT and Corporate Resilience)*	• ICT Strategy • ICT contracts • Networks and system support • Data Protection • Information Management • Cyber Security • FOI/EIR requests for information • Internet • Intranet • Telephony • Digital Infrastructure Champion
	• **Superfast Essex**	• Representative on Superfast Essex Steering Group
	• **Enforcement matters relating to Portfolio Holder responsibilities** *Officers: Damian Williams, Corporate Director (Operations and Delivery)*	• Strategic Oversight of Enforcement Policies, Procedures and Performance within areas of responsibility • Attendance at Corporate Enforcement Group, where appropriate (excludes regulatory functions that are the responsibility of Planning and Licencing Committees)
	• **Coast Protection and Engineering** *Officers: Damian Williams, Corporate Director (Operations and Delivery and Andy White (Assistant Director (Building and Public Realm)*	• Coast Protection and flood defence – planning and major schemes • Coast Protection Maintenance • Minor Engineering Works • Sewerage and land drainage • Local highways and lighting functions e.g. road closures, street naming, numbering and name plates and highways rangers
	• **Transport** *Officers: As above*	• Fleet management and vehicle workshops

	• **Climate Change and Carbon Neutral** *Officers: Lee Heley Deputy Chief Executive & Corporate Director - Place and Wellbeing) and Tim R Clarke (Assistant Director for Housing and Environment)*	• Champion & Green Issues • Strategy and Policy • Action Plan Development and Monitoring
HOUSING AND PLANNING	• **Strategic Housing (Private Sector Housing)** *Officers: Damian Williams, Corporate Director (Operations and Delivery) and Tim R Clarke (Assistant Director for Housing and Environment)*	• Financial assistance for private sector housing • Houses in Multiple Occupation • Private Sector Housing – regulation and improvement • Tenants Redress Scheme • Private Sector Housing conditions enforcement and advice • Gypsy/Traveller liaison and representative on Essex Countywide Traveller Joint Committee • Home energy efficiency and fuel poverty • Jaywick Sands Team • Housing Stock Review
	• **Strategic Housing (Housing Options and Allocations)** *Officers: Damian Williams, Corporate Director (Operations and Delivery) and Tim R Clarke (Assistant Director for Housing and Environment)*	• Housing strategy and development • Homelessness policy and advice and assistance to homeless persons and in housing need • Housing allocation scheme
	• **Housing Maintenance and Investment Programme** *Officers: Damian Williams, Corporate Director (Operations and Delivery, Tim R Clarke (Assistant Director for Housing and Environment) and Andy White, Assistant Director (Building and Public Realm)*	• Maintenance of housing assets including sheltered schemes • Housing Investment Programme

	• **Housing Management** *Officers: Damian Williams, Corporate Director (Operations and Delivery) and Tim R Clarke (Assistant Director for Housing and Environment)*	• Sheltered housing • Tenancy management • Housing Revenue Account business plan • Supporting people contract with Essex County Council • Local supporting people • Partnership with registered providers • Enable new opportunities to address housing need through partnership working • Tenant Relations • Rent collection • Right to Buy and other disposals
	• **Community Regeneration Partnership Projects**	• Individual Portfolio Holder responsibility, in consultation with the Portfolio Holder for Economic Growth Regeneration & Tourism for the following CRP projects: - *Extending the housing enforcement work of Jaywick Healthy Homes Initiative*
	• **Strategic Planning** *Officer: Gary Guiver, Corporate Director - Planning and Community*	• Corporate Strategic Oversight of the various planning functions delivered by the Service • Planning Policy and Guidance such as Supplementary Planning Documents and Guidance • Neighbourhood Planning District Council responsibilities • Constructive liaison with the Chairman of the Planning Committee and Chairman of the Planning Policy and Local Plan Committee

	• **Tendring/Colchester Borders Garden Community** *Officer: Gary Guiver, Corporate Director – Planning & Community*	• .Executive Representation on Tendring/Colchester Borders Garden Community Joint Committee • Executive Steering Group Representative
	• **Buildings**	• Dangerous structures • Building Control Services
	• **Enforcement Matters related to Portfolio Holder responsibilities** *Officers: All named in this Portfolio*	• Strategic Oversight of Enforcement Policies, Procedures and Performance within areas of responsibility. • Attendance at Corporate Enforcement Group, where appropriate (excludes regulatory functions that are the responsibility of Planning and Licensing Committees)
LEISURE AND PUBLIC REALM	• **Leisure Services** *Officers: Lee Heley Deputy Chief Executive & Coroprate Director - Place and Wellbeing and Mike Carran (Assistant Director – Sport, Culture and Health*	• Sports centres and facilities (representative on Joint Consultative Committees and partnerships with schools) • Sports initiatives and sports development • Communities of interest (Children and Young People for sport and leisure)
	• **Public Realm and Open Spaces** *Officers: Damian Williams, Corporate Director (Operations and Delivery) and Andy White Assistant Director (Building and Public Realm)*	• Horticultural Services • Open Spaces • Recreation Grounds • Children's Play Areas • Public Halls • Sports Clubs

	• **Seafronts** *Officers: Lee Heley Deputy Chief Executive & Corporate Director – Place and Wellbeing and Mike Carran (Assistant Director Sport, Culture and Health* *Officers: Damian Williams, Corporate Director (Operations and Delivery) and Andy White (Assistant Director for Building and Public Realm)*	• Seafront Management • Beach Huts • Beach Cleaning • Kiosks
	• **Car Parking** *Officers: Damian Williams, Corporate Director (Operations and Delivery) and Andy White Assistant Director (Building and Public Realm)*	• Off street car parking service • Traffic Regulation Orders • Strategic parking advice and on street functions as delegated by the Highway Authority • Council's representative on North Essex Parking Partnership (NEPP) • Electric Vehicle Charging Policy
	• **Community Regeneration Partnership Projects**	• Individual Portfolio Holder responsibility, in consultation with the Portfolio Holder for Economic Growth, Regeneration and Tourism for the following CRP projects: - *Active Wellbeing Centre Phase One and All Wheels Park exclusive cycling facility* - *Enhancing public open space i Jaywick Sands*
	• **Enforcement Matters related to Portfolio Holder responsibilities** *Officers: All named in this Portfolio*	• Strategic Oversight of Enforcement Policies, Procedures and Performance within areas of responsibility. • Attendance at Corporate Enforcement Group, where appropriate (excludes regulatory functions that are the responsibility of Planning and Licensing Committees)

PARTNERSHIPS	• **Health and Well-being** *Officers: Lee Heley Deputy Chief Executive & Corporate Director (Place and Wellbeing)*	• Health Service Liaison • Health and Well-being • Community Health • Health inequalities
	• **Partnerships** *Officers: Gary Guiver Corporate Director (Planning & Community)*	• Education and Skills Agenda including Job Centre Plus Partnerships • Community engagement, development and empowerment (including consultations, advice and support) • Stakeholder relationships with public and third party organisations • Neighbourhood activities
	• **Customer Services** *Officers: Gary Guiver Corporate Director (Planning & Community)*	• Customer Services • Careline service • Out of hours service • Contact Centre • Switchboard
	• **Human Resources** *Officers: Katie Wilkins, Assistant Director People*	• Career Track • (NB other Human Resources functions are non-executive and some are delegated to the Human Resources and Council Tax Committee with others being delegated to the Head of Paid Service)
	• **Enforcement Matters related to Portfolio Holder responsibilities** *Officers: As above*	• Strategic Oversight of Enforcement Policies, Procedures and Performance within areas of responsibility. • Attendance at Corporate Enforcement Group, where appropriate (excludes regulatory functions that are the responsibility of Planning and Licensing Committees)

ARTS, CULTURE AND HERITAGE	• **Arts, Culture and Heritage** *Officers: TBC*	• Arts, entertainment, culture and heritage initiatives, projects and related events • Lead member for Arts Council liaison • Princes Theatre Management
	• **Rural Affairs** *Officers: TBC*	• Rural Champion • Rural England Prosperity Fund
	• **Equity and Inclusion** *Officers: TBC*	• Strategy and Champion
	• **Community Regeneration Partnership Projects** Lee Heley – Deputy Chief Executive & Corporate Director (Place and Wellbeing)	• Individual Portfolio Holder responsibility in consultation with the Portfolio Holder for Economic Growth Regeneration & Tourism for the following CRP projects: - *Repurposing seafront assets for seafront arts, exhibition and community micro venue*
	• **Enforcement matters relating to Portfolio Holder responsibilities** *Officers: As above*	• Strategic Oversight of Enforcement Policies, Procedures and Performance within areas of responsibility. • Attendance at Corporate Enforcement Group,, where appropriate. (excludes regulatory functions that are the responsibility of Planning and Licensing Committees)

4.2.2 Role of Leader and Individual Portfolio Holders

In addition to the general principles set out in Section 3 above, the role of individual Portfolio Holders with areas of responsibility is as follows:-

1. To have overall responsibility for the development, implementation and review of Strategies and District Council Policy in relation to their portfolios and to be the main Council spokesperson thereon.

2. To monitor service performance regarding progress towards achieving strategies and objectives and delivery of service performance targets within approved budgets.

3. To satisfy themselves as the integrity of financial information and the adequacy of financial controls and risk management arrangements.

4. To represent and speak on behalf of the Cabinet at the Overview and Scrutiny and Audit Committees when they are dealing with issues in their portfolio.

5. To be a member of the Cabinet and exercise collective responsibility in decision making and in making recommendations to the Council.

6. To consult with the Committees, other Members, partners and stakeholders including the public as appropriate in the formulation and development of Council policy within their portfolio.

7. To inform and consult relevant ward Members when making formal decisions.

8. To make decisions in accordance with the Council's Strategies, Policies, Procedures, Protocols and Codes of Conduct or as otherwise required by the Constitution.

9. To undertake all relevant training provided to aid them in carrying out their duties and responsibilities as Portfolio Holders and to keep themselves up to date on such training.

4.3 ADDITIONAL SPECIFIC DELEGATIONS TO INDIVIDUAL PORTFOLIO HOLDERS

Corporate Finance and Governance

1. The monitoring and review of the operation of the Council's Constitution and recommending amendments to the Constitution to the Cabinet/Council.

2. To oversee the preparation and recommendation of financial forecasts and annual detailed budget, including Housing Revenue Account.

3. In consultation with the Chief Financial Officer, to agree the outturn position/report each year (including carry forwards) to provide the necessary flexibility to comply with the new statutory timetable for publishing the Council's Statement of Accounts.

4. Overview and presentation of financial monitoring reports to Cabinet.

5. The exercise of functions delegated to the Portfolio Holder by the Financial and Procurement Procedure Rules.

6. The approval of the Council's Council Tax Base and the Government's Annual NNDR Forecast Return.

7. Implementation and Monitoring of the Council's Treasury Management Policy Statement and Treasury Management Practices.
8. The approval of the draft Annual Capital and Treasury Strategy, in advance of it being formally considered by Cabinet, for consultation purposes with the Resources and Services Overview & Scrutiny Committee. In due course, the Cabinet will then recommend the final version of the Strategy to Full Council for formal adoption.

Assets

1. Overseeing implementation of the Property Strategy, Property Programme and Property Office Procedures in accordance with the Property Dealing Procedure.

2. The exercise of functions delegated to the Portfolio Holder by the Property Dealing Procedure.

3. The exercise of functions delegated to the Portfolio Holder by the Procurement Procedure Rules.

Leisure and Public Realm

1. To approve the making of car parking regulation orders when requested by Essex County Council.

2. The selection and rejection of proposals for the making of traffic regulation orders being submitted to the North Essex Parking Partnership will be authorised by the Portfolio Holder, where objections have been received to initial proposals. Reasons for such selection or rejection will be published following consultation with the relevant ward councillor and the relevant adjacent ward councillor. Such delegation cannot be exercised for proposed traffic regulations orders within the Portfolio Holder for Leisure and Public Realm's ward and in such cases, would be referred to the Leader for determination.

3. The determination of Hackney Carriage stands under Section 63 of Part 2 of the Local Government (Miscellaneous Provisions) Act 1976 (in consultation with the Portfolio Holder for Housing and Planning).

Housing and Planning

1. The authorisation of delegated budgets to formally constituted stakeholder groups subject to adequate provision having been made in the revenue estimates approved by Cabinet.

2. Oversee the preparation of the Housing Revenue Account Business Plan, Housing General Fund, Housing Benefits and the Housing Investment Programme, including rent setting and review, within policy guidelines as determined by the Cabinet.

3. The development, implementation and amendment, as required, of the Housing Investment Programme in accordance with the annual budget set by Cabinet.

4. The development and review of the Council's Local Council Tax Support Scheme for presentation to Cabinet for recommendation to Council for approval.

5. Ensuring that there is effective two-way communication between the Executive and the Local Plan and Planning Committees. In particular in relation to the implementation of current Development Plan policies and to drafts of any review of the Development Plan

6. Approval, where permitted, of Master Plans, Conservation Area Management Plans and Development and Design Briefs prepared to support any Development Plan Documents.

7. To consider and agree responses to consultation exercises on national, regional and sub-regional planning policy issues and on other authorities' planning documents.

8. To act as lead portfolio holder in respect of the Council's Statement of Licensing Policy (Gambling Act 2005).
9. The approval of grants to organisations within the areas of responsibility (including enhanced rate relief and other discretionary benefits).

Economic Growth, Regeneration and Tourism

1. To act as lead portfolio holder in respect of all Transport cross-cutting issues.

2. Engagement with regional and sub-regional partnerships, planning and funding frameworks – including the Haven Gateway Partnership – to promote the interests of the Tendring District and the communities within it.

3. The approval of grants to organisations within areas of responsibility (including enhanced rate relief and other discretionary benefits).

4.4 DELEGATION OF EXECUTIVE FUNCTIONS TO OFFICERS

1. With the exception of the matters which the Leader of the Council has determined are to be discharged by the Cabinet or individual Portfolio Holders, as detailed in the Cabinet Scheme of Delegation, the Corporate Directors and, where appropriate, the Assistant Directors have delegated authority to discharge all executive functions within their respective service areas as set out in Article 12, having authority to act on all such matters. The Chief Executive shall determine from time to time what the service responsibilities of Corporate Director and each Assistant Director shall be.

2. The delegation of powers to officers is underpinned by the principle and culture of consultation and liaison with Members, as appropriate and the ability for officers to refer matters to the relevant decision maker i.e. individual Portfolio Holder or a meeting of the full Cabinet, where it is felt that this is appropriate due to the nature of an issue.

3. In all cases of delegations to officers where consultation with the relevant Portfolio Holder is necessary, and in cases where the relevant Portfolio Holder is not available, the Leader of the Council is to be consulted.

   In instances, where there is disagreement between the officer and the relevant Portfolio Holder the matter should be referred to Cabinet for consideration and determination.

4. The discharge of all such functions by Officers shall be subject to:-

   (i) actions being taken in accordance with the Council's Budget and Policy Framework and other Council Policies, Procedures, Protocols and Codes of Conduct;

   (ii) consultation, as appropriate with relevant Portfolio Holder;

   (iii) the referral of any required decision or action which is controversial in nature to the appropriate Member decision making individual or body; and

   (iv) recording the decision in the required format.

5. The Leader of the Council has delegated authority for executive functions to Chief Executive and the Corporate Directors, however any authority granted to the Chief Executive, a Corporate Director or an Assistant Director, unless otherwise indicated, may be exercised by an Officer authorised by the Corporate Director or Assistant Director in writing for that purpose. The Monitoring Officer will maintain a record of such authorisations which shall be available for inspection.

6. The Corporate Directors and, where appropriate, the Assistant Directors are Designated Officers for the purposes of legislation within their respective service areas as set out in Article 12 of the Constitution and have the power to designate Officers of the authority as an authorised person for purposes relating to legislation falling within their areas of responsibility as set out in Article 12.

7. Any authority which can statutorily only be discharged by Officers with a specific level of qualification must only be conferred to and discharged by such Officers. Furthermore, where the matter relates to a statutory power or duty conferred or imposed directly on an Officer of the Council, only that Officer may discharge the function.

8. The Chief Executive has authority to exercise any executive function delegated to Officers, except where an Officer with appropriate qualifications must only discharge such a delegation or where the matter relates to a statutory power or duty conferred or imposed directly on an Officer of the Council as referred to in paragraph 6.

9. The delegations to Officers include the normally accepted powers and duties of Officers to deal with matters of routine occurrence falling within the scope of their departmental and service responsibilities. This includes all present and future legislation relating to the functions of the service and nothing in this schedule shall derogate from any statutory power or duties conferred or imposed directly on an Officer of the Council.

10. In accordance with the legislative requirements, any Officer making a decision in connection with the discharge of an executive function under their delegated powers shall be responsible for maintaining a record of such decisions and arranging for this to be published on the Council's website.

11. Where functions, which are the responsibility of the Cabinet, are delegated to Officers, the Cabinet remain accountable to the Council, through overview and scrutiny committees for the discharge of those functions. That is to say, the Cabinet will be held to account for both its decision to delegate a function and the way that the function is being carried out. Officers may be requested to attend an Overview and Scrutiny Committee, if an Officer's decision is called in.

12. The Monitoring Officer shall determine in any case of uncertainty whether any matter falls within the remit of the Council, the Cabinet, a Committee or an Officer of the Council. Such a determination will be having taken account of relevant legislation.

4.4.1 General Responsibilities delegated to Officers:

1. All Corporate Directors have the authority to incur expenditure (with the exception of external legal resources) in accordance with the Budget and Policy Framework, Financial Procedure Rules and Procurement Procedure Rules. Instructing external legal resources remains the responsibility of the Corporate Director – Law and Governance.

2. All Corporate Directors are authorised to apply for planning permission in respect of land and/or buildings owned by or within the control of the Council and held in respect of the functions of a Portfolio Holder. In such instances, consultation with the relevant Portfolio Holder is mandatory

3. In consultation with the Corporate Director – Law and Governance, all Corporate Directors are authorised to deal with the assignment of leases and granting, variation and renewal of licences up to a maximum duration of 12 months including annual rights of way within their respective service areas of responsibility.

4. The management and maintenance of all the land holdings occupied or within the control of the service area remit, including health and safety inspections.

5. All Corporate Directors are authorised to issue and serve notices under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 in respect of functions under the control of a Portfolio Holder.

6. All Corporate Directors are authorised in consultation with the Corporate Director – Law and Governance, to take all steps in connection with any legal proceedings, in respect of any function under the jurisdiction of a Portfolio Holder including the commencement or defence of, withdrawal, settlement or compromise of any such proceedings.

7. All Corporate Directors are authorised in consultation with the Corporate Director – Law and Governance, to appear on the Council's behalf in any legal proceedings, under the jurisdiction of a Portfolio Holder, before all courts, tribunals and inquiries.

8. All Assistant Directors, in consultation with the relevant Portfolio Holder, Management Team Member and the Assistant Director (Finance & IT), are authorised to decide the level of the annual discretionary fees and charges for their service (including any in-year changes that may be required) for inclusion within the Council's corporate schedule of fees and charges.

9. The Chief Executive is delegated the power to authorise compensation payments up to a maximum of £5,000 as a result of Local Government & Social Care Ombudsman or Housing Ombudsman recommendations or by virtue of the Corporate Complaints Procedure.

Schedule 4

Schedule of Proper Officers

And Related Provisions

The Officers appointed to the statutory positions of Head of Paid Service, Section 151 Officer and Monitoring Officer are set out in Article 12 of the Council's Constitution.

Proper Officer and Statutory Officer appointments must be distinguished from powers "delegated" to Officers.

1. Delegated powers –

   (1) are confirmed at the Council's discretion

   (2) may be withdrawn or amended; and

   (3) may be subject to the observance of conditions and/or compliance with Council policy.

2. Under certain statutes and guidance, the Council is required to appoint a Proper Officer or Statutory Officers to undertake a specific function. In such cases, the effect of the statutory provision is as follows:-

   (i) the function can only be dealt with through that Officer;

   (ii) the function can only be discharged by that Officer in the way prescribed by the statutory provision concerned;

   (iii) the Council cannot direct the way in which the function is discharged.

3. In the absence of the Proper Officers their powers are exercisable by their Deputy or Deputies in absence or by such Officer(s) as the Proper Officer in writing shall appoint

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SCHEDULE 4 – PROPER OFFICERS

The Council has appointed the following Proper Officers

STATUTORY REFERENCE	FUNCTION	PROPER OFFICER	Officer to act in event of Proper Officer being unable to
Local Government Act 1972			
Section 41	Returning Officer at Local Elections	Chief Executive	Assistant Director Corporate Policy and Support
Section 83	Witness and receipt of Declarations of Acceptance of Office	Chief Executive	Monitoring Officer
Section 84	Receipt of Notice of Resignation	Chief Executive	Monitoring Officer
Section 88	Convening of Meeting of Council to fill casual vacancy in office of Council Chairman	Chief Executive	Monitoring Officer
Section 89	Receipt of Notice of casual vacancy in the case of Councillors	Chief Executive	Monitoring Officer
Section 100B(2)	Exclusion of Reports from inspection by public	Monitoring Officer	Deputy Monitoring Officer
Section 100B(7)	Provision of copies of documents other than Agenda and Minutes to the Press	Monitoring Officer	Deputy Monitoring Officer
Section 100C(2)	Provision of summary of proceedings of a closed meeting	Monitoring Officer	Deputy Monitoring Officer
Section 100D(5)	Provision of background papers	Assistant Director Corporate Policy and Support	Democratic Services Manager
Section 100F(2)	Disclosure of documents to Members	Monitoring Officer	Deputy Monitoring Officer
Section 115	Receipt of true account and monies due from Officers	Section 151 Officer	Deputy Section 151 Officer
Section 146	Statutory Declarations and Certificates with regard to securities	Section 151 Officer	Deputy Section 151 Officer
Section 151	Responsibility for provision of adequate and effective Internal Audit function	Section 151 Officer	Deputy Section 151 Officer
Section 191	Functions with respect to Ordnance Survey Act 1841	Director for Planning	Corporate Director Planning and Community
Section 210	Powers in respect to local charity	Section 151 Officer	Deputy Section 151 Officer

STATUTORY REFERENCE	FUNCTION	PROPER OFFICER	Officer to act in event of Proper Officer being unable to
Local Government Act 1972 cont.			
Section 212	Local Land Charges Register	Corporate Director (Planning & Community	Head of Planning Business and Policy
Section 225(1)	Deposit of Documents	Monitoring Officer	Democratic Services Manager
Section 229(5)	Certification of copies of documents intended to be used in legal proceedings	Monitoring Officer	Deputy Monitoring Officer
Section 234(1)	Authentication of Documents	Monitoring Officer	Deputy Monitoring Officer
Sections 236 & 238	Certification of Byelaws	Corporate Director - Law and Governance	An in-house Solicitor
Schedule 12 – Para 4 (a) (b)	Signature of Council Summons Receipt of Notice of address for Council Summons	Chief Executive Assistant Director Corporate Policy and Support	Monitoring Officer Democratic Services Manager
Schedule 14 – Para 25	Certification of Resolutions	Monitoring Officer	Deputy Monitoring Officer
Schedule 16 – Para 28	Receipt of deposit of Lists of protected buildings	Corporate Director Planning and Community	Head of Planning Business and Policy
Schedule 22 – Para 17	Authentication of Notices etc. under the Housing Acts	Corporate Director (Operations and Delivery)	Assistant Director (Housing & Environment)
Local Government (Miscellaneous Provisions) Act 1976			
Section 41	Evidence of Resolutions and Minutes of proceedings	Monitoring Officer	Deputy Monitoring Officer
Representation of the People Regulations 1986			
Regulation 96	Retention of documents relating to Postal voting	Chief Executive	Assistant Director Corporate Policy and Support
Representation of the People Act 1983			
Section 8(2) and Section 52(3)	Appointment of Electoral Registration Officer (automatically acting Returning Officer in Parliamentary elections)	Chief Executive	Assistant Director Corporate Policy and Support

STATUTORY REFERENCE	FUNCTION	PROPER OFFICER	Officer to act in event of Proper Officer being unable to
Representation of the People Act 1983 cont			
Sections 18B and 31	Designation of Polling Districts and Places (Parliamentary and Local Government Elections)	Chief Executive	Assistant Director Corporate Policy and Support
Section 52(2)	Deputising for Registration Officer	Assistant Director Corporate Policy & Support	Elections Manager
Sections 67 to 70	Appointment etc. of Election Agent	Returning Officer	Returning Officer to appoint Deputies at each election (as required)
Sections 75, 81, 82 & 89	Return of election expenses	Chief Executive	Assistant Director Corporate Policy and Support
Section 128	Publication of election Petition	Chief Executive	Assistant Director Corporate Policy and Support
Section 131	Provision of accommodation for election court	Chief Executive	Assistant Director Corporate Policy and Support
Local Elections (Principal Areas) Rules 1986			
Rule 44	Receive notice of Declaration of Result	Chief Executive	Assistant Director Corporate Policy and Support
Rules 46 to 48	Retention of election documents	Chief Executive	Assistant Director Corporate Policy and Support
Police and Crime Commissioner Elections Order 2012			
Article 10	Designation of Polling Districts & Places	Chief Executive	Assistant Director Corporate Policy and Support
Local Government Finance Act 1988			
Section 114	Report to Full Council in respect of unlawful expenditure or an unbalanced budget	Section 151 Officer	Deputy Section 151 Officer
Section 116	To inform the Authority's external auditor of the date, time, place and outcome of meetings held under Section 115 of the Act	Section 151 Officer	Deputy Section 151 Officer
Local Government (Committees and Political Groups) Regulations 1990			
Regulations 8-10, 13, 14 & 17	Political balance and appointments to committees	Chief Executive	Monitoring Officer
Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000			
Regulations 5-8	Functions relating to petitions and referenda for elected mayor	Chief Executive	Monitoring Officer

STATUTORY REFERENCE	FUNCTION	PROPER OFFICER	Officer to act in event of Proper Officer being unable to
Local Authorities (Standing Orders) (England) Regulations 2001			
Schedule 1 Part II	Administration relating to the appointment and dismissal of a member of staff	Assistant Director (Partnerships)	Human Resources & Business Manager
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and final determination of 'Need to Know'			
Regulations 2, 7, 10, 12, 13, 14, 15, 16 & 20 and Common Law position	Access to Information Procedure and Recording of Decisions	Monitoring Officer	Deputy Monitoring Officer

Schedule 5

Joint Arrangements

NORTH ESSEX PARKING PARTNERSHIP

Tendring Council is a member of the North Essex Parking Partnership, which includes the Boroughs and Districts of **Braintree, Colchester, Epping Forest, Harlow, Tendring** and **Uttlesford.**

The Partnership adopted responsibility for the ongoing maintenance and enforcement of on-street parking restrictions throughout the north of Essex.

The Partnership's responsibilities will include the implementation of new parking restrictions and schemes, including ensuring that all existing signs and street lining relating to on-street parking restrictions is in place and is up to standard.

TERMS OF REFERENCE FOR TENDRING COLCHESTER BORDERS GARDEN COMMUNITY JOINT COMMITTEE

1. Parties:

(1) Tendring District Council ("TDC")
(2) Colchester City Council ("CCC")
(3) Essex County Council ("ECC")

2. Status:

This Committee is a joint committee for Tendring Colchester Borders Garden Community (TCBGC) formed by resolutions of the Cabinets and Full Councils of TDC, CCC and ECC pursuant to sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972. The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012, Regs 11 (7) and 12 (4) *(These regulations determine arrangements involving joint committees and membership)*.

TDC and CCC have agreed pursuant to Section 28 of the Planning and Compulsory Purchase Act 2004 to prepare a joint local development document, for the purposes of these Terms of Reference to be known as a joint TCBGC DPD, although the name of the Garden Community may change throughout the process.

3. Membership:

- 2 Members appointed by TDC (one of which must be the Chairman of the Planning Policy and Local Plan Committee and the other must be a Member from a political group that is not represented on the Cabinet) plus 1 Cabinet member appointed by the Leader.
- 2 Members appointed by CCC (one of which must be the Chairman of the Local Plan Committee) plus 1 Cabinet member appointed by the Leader
- 2 Members appointed by ECC, one of whom should be a Cabinet Member or Deputy Cabinet Member.
- TDC and CCC will also each appoint a Member to serve as their respective Council's Substitute Member. ECC will appoint two Substitute members.

3.1 All members of the Committee shall have undertaken suitable training which shall have been approved by the parties.

4. Terms of reference:

4.1 The Committee's remit is to jointly discharge the functions ('the Functions') set out in Appendix 1 in relation the Tendring Colchester Borders Garden Community, the

4.2 exercise of which have been delegated to the Committee by TDC, CCC and ECC, subject to the limitation in paragraphs 4.3 and 4.4.

4.3 The functions delegated by TDC, CCC and ECC include:-

(a) To exercise the Council's functions relating to overseeing the preparation of the joint TCBGC DPD and ensuring it:

a. is in accordance with the Local Development Schemes;
b. includes policies designed to secure that the development and the use of land in the garden community area contribute to the mitigation of, and adaption, to climate change;
c. meets the "tests of soundness" as set out in legislation, national and planning policy and advice contained within guidance issued by the Secretary of State;
d. has regard to the adopted Section 1 of CCC & TDC's Local Plan;
e. has regard to the resources likely to be available for implementing the proposals in the document;
f. other such matters the Secretary of State prescribes; and
g. complies with the Council's Statement of Community Involvement

(b) the power to formulate and prepare a draft Joint Development Plan Document for consultation under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012;

(c) carry out an appraisal of the sustainability of the proposals within the joint TCBGC DPD and approve the findings of the appraisal;

(d) make recommendations to TDC and CBC in relation to the approval of the TCBGC DPD for the purpose of its submission to the Secretary of State for independent examination under Section 20 of the 2004 Act, and consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012;

(e) consideration of amendments or modifications of the joint TCBGC DPD recommended by the person carrying out the independent examination under section 20 of the 2004 Act;

(f) recommend to CCC and TDC adoption of Joint Development Plan Documents in accordance with Section 28 of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012; and

(g) the power of the TDC and CCC as local planning authority to determine planning applications by virtue of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

(h) To exercise TDC, CCC and ECC's local planning authorities' powers and duties in relation to development control including for the avoidance of doubt the power to approve authorise and direct the respective Local Planning Authorities to enter into agreements regulating the development or use of land pursuant to S106 of the Town and Country Planning Act 1990 and related powers.

4.3 Note that the following are the sole responsibility of TDC and CCC's full Council's:

a) Responsibility for giving of instructions to the Cabinet and Joint Committee to reconsider the draft plan submitted by the Joint Committee for the Council's consideration.
b) The amendment of the draft joint development plan document submitted by the Joint Committee for the full Council's consideration.
c) The approval of the joint development plan document for the purposes of consultation submission to the Secretary of State for independent examination.
d) The adoption of the joint development plan document.

4.4 Committee shall discharge the functions relating to town and country planning and development control as specified in *Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended),* falling wholly or substantially within the Tendring Colchester Borders Garden Community area shown coloured purple on the plan contained at Appendix 2.

4.5 The Committee may exercise the subsidiary powers authorised pursuant to section 111, Local Government Act 1972 in connection with the discharge of the functions.

4.6 The Committee may exercise the powers of delegation contained in section 101(2), Local Government Act 1972 and agree a Scheme of delegation to officers.

4.7 TDC, CCC or ECC may request an application to be considered by the Committee in accordance with an agreed scheme.

4.8 All members of the Committee shall be entitled to vote on any matter to be determined by the Committee.

5. Standing Orders

5.1 The Committee shall be governed by the Standing Orders set out in Appendix 3.

5.2 The Committee shall have the power to amend the Standing Orders from time to time within the scope of these Terms of Reference following consultation with the Council's Monitoring Officers.

6. Administration

6.1 The Council which is the local planning authority shall receive applications relating to the functions in the usual way and shall be responsible for all administrative stages leading to and flowing from the exercise of the functions.

6.2 The administration of the Committee will be undertaken by TDC who shall be responsible for all matters connected with the administration of the Committee, including the preparation and dispatch of agendas and securing premises at which the Committee may meet.

Appendix 1

Functions delegated by Tendring District Council and Colchester City Council to the Joint Committee in relation to Tendring Colchester Borders Garden Community.

1. The functions delegated by TDC and CCC: -

(a) To exercise the Council's functions relating to overseeing the preparation of the joint TCBGC DPD and ensuring it:

a. is in accordance with the Local Development Schemes;
b. includes policies designed to secure that the development and the use of land in the garden community area contribute to the mitigation of, and adaption, to climate change;
c. meets the "tests of soundness" as set out in legislation, national and planning policy and advice contained within guidance issued by the Secretary of State;
d. has regard to the adopted Section 1 of CCC & TDC's Local Plan;
e. has regard to the resources likely to be available for implementing the proposals in the document;
f. other such matters the Secretary of State prescribes; and
g. complies with the Council's Statement of Community Involvement

(b) the power to formulate and prepare a draft Joint Development Plan Document for consultation under Regulation 18 of the Town and Country Planning (Local Planning)(England) Regulations 2012;

(c) carry out an appraisal of the sustainability of the proposals within the joint TCBGC DPD and approve the findings of the appraisal;

(d) make recommendations to TDC and CCC in relation to the approval of the TCBGC DPD for the purpose of its submission to the Secretary of State for independent examination under Section 20 of the 2004 Act, and consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012;

(e) consideration of amendments or modifications of the joint TCBGC DPD recommended by the person carrying out the independent examination under section 20 of the 2004 Act;

(f) recommend to CCC and TDC adoption of Joint Development Plan Documents in accordance with Section 28 of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012; and

(g) the power of the TDC and CCC as local planning authority to determine planning applications by virtue of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

2. The functions delegated by TDC, CCC & ECC: -

(a) To exercise TDC, CCC and ECC's local planning authorities' powers and duties in relation to development control including for the avoidance of doubt the power to approve authorise and direct the respective Local Planning Authorities to enter into agreements regulating the development or use of land pursuant to S106 of the Town and Country Planning Act 1990 and related powers within the Tendring Colchester Borders Garden Community area showed coloured purple on the plan in Appendix 2.

3. In exercising the functions in paragraph 2(a) the kind of matters that would fall to the Joint Committee to consider, in the determination of planning applications would include:

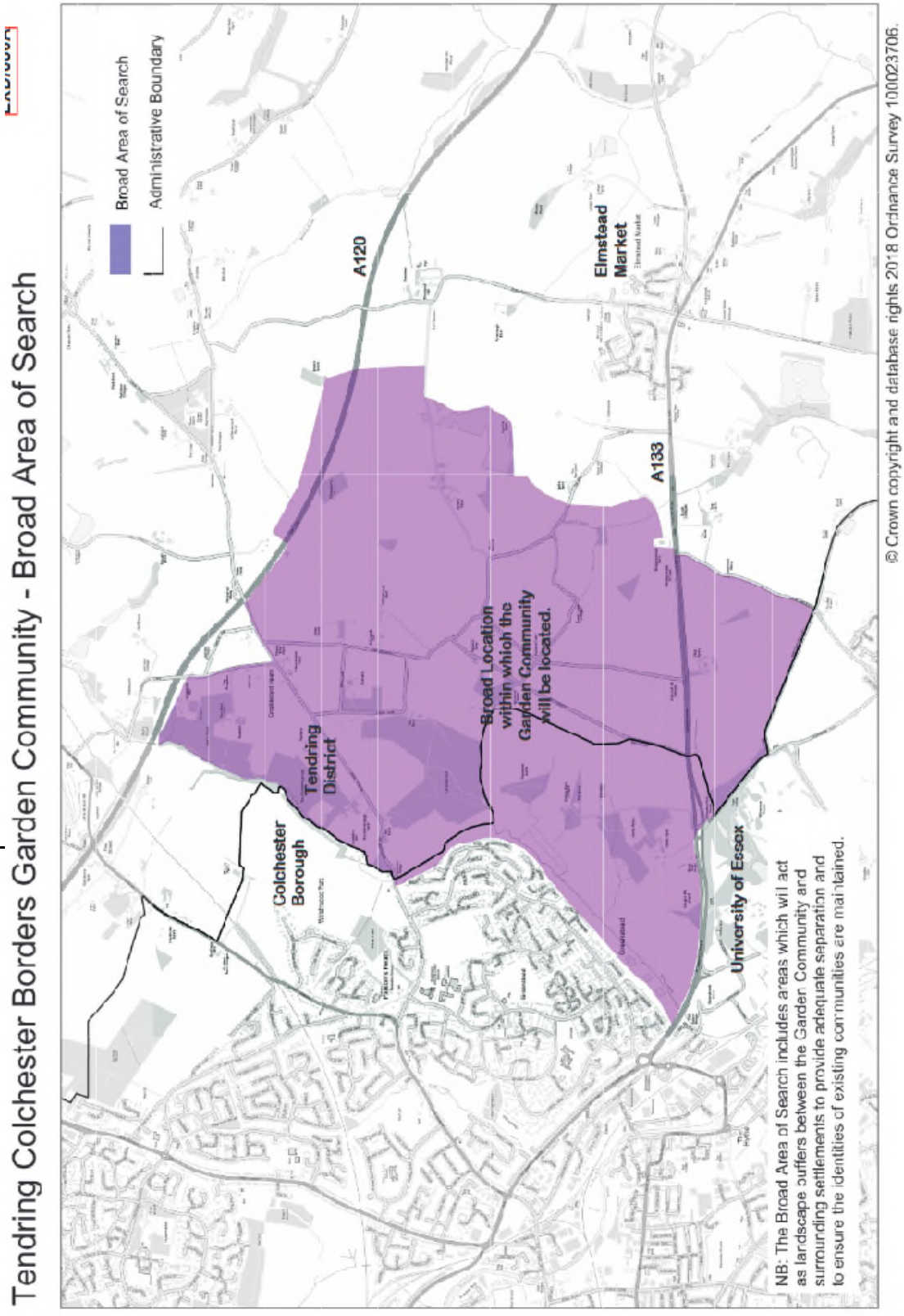
- Housing – all tenures (market, affordable, and specialist housing for elderly persons etc.)
- New schools (primary, secondary, special education needs early years and post 16)
- Community centre, community hub and library
- leisure uses, sports provision, and allotments
- Country parks, recreation and public open space
- Any waste development proposals.
- Sustainable Urban Drainage
- Town/neighbourhood centre(s) and associated shops (all shapes and sizes)
- Public realm, footpaths and dedicated cycle routes/network
- All new roads and road crossing within the Garden Community
- Any segregated/dedicated bus routes
- Commercial and employment sites, including energy for waste proposals.
- Minerals planning applications.

4. In addition the Joint Planning Committee would also have a role in considering:

- The heads of terms for S106 obligations relating to the mitigation measures, necessary infrastructure and affordable housing required to deliver a policy compliant development.
- Development viability, where relevant, in relation to S106 obligations.
- Stewardship model aligned to the S106 and associated permissions.
- Ongoing monitoring of the compliance of development with agreed permissions, related obligations/conditions and its implementation to an agreed standard.

Appendix 2

Plan showing Tendring Colchester Borders Garden Community



Appendix 3

Standing Orders for Tendring Colchester Borders Garden Community Joint Committee

1. Appointment of Chair and Deputy Chair

1.1 The Committee shall, at its first meeting in each municipal year, and from time to time as it considers necessary, elect a Chair and Deputy Chair. The Chair and Deputy Chair shall rotate between the Councils.

1.2 In the absence from any meeting of the Chair and Deputy Chair, a Chair for that meeting shall be appointed by the meeting but shall relinquish the chair if the Chair or Deputy Chair subsequently arrives at the meeting.

2. Appointment of Spokespersons

2.1 Each of the Councils shall nominate one of the committee members which it appoints as its spokesperson.

3. Notice of and Summons to Meetings

3.1 The administration of the Committee shall be undertaken by Tendring District Council who will give notice to the public of the time and place of any meeting in accordance with the access to information rules applicable to local authorities. At least five clear days before a meeting, the Committee Service will send an agenda by post and/or electronically to every member of the Committee. The agenda will give the date, time and location of each meeting and specify the business to be transacted and will be accompanied by such details as are available.

3.2 The Committee Service will take reasonable steps to ensure that a copy of the agenda and accompanying papers are placed on deposit at the offices of each of the councils for public inspection at least five clear days before the meeting and are published on the Council's web sites. The Committee Service will ensure that arrangements are put in place for the inspection of background papers in accordance with section 100D, Local Government Act, 1972 and to ensure compliance with all other provisions of Part VA, of that Act.

3.3 Dates, times and venues for meetings shall be determined by the Committee. In the absence of agreement or in cases of urgency, meetings may be called by the Committee Service following consultation with the Chair and Deputy Chair.

3.4 If at any time Tendring District Council was unable to fulfil its role in providing the administration to the Committee, Colchester City Council or Essex County Council will perform the functions.

4. Membership

4.1 Committee members shall be appointed by the Councils from time to time in accordance with the Committee's terms of reference. A Council may at any time replace one or more of its nominated members by notice given to the Committee Service.

5. Substitute Members

5.1 Each Council will appoint substitute members in accordance with the Committee's terms of reference. Each Council will notify the Committee Service of substitute members appointed.

5.2 Substitute members will have all the powers and duties of an ordinary member of the Committee. For the purposes of briefing meetings and circulation of papers, substitute members shall be treated in the same manner as ordinary members.

5.3 Substitute members may attend meetings in the capacity of an ordinary member of the Committee. The substitute member should withdraw from participation as a member of the Committee in the business at that meeting during any period at which the ordinary member is in attendance.

6. Quorum

6.1 The quorum of a meeting of the Committee shall be as follows: -

2 Members from Tendring District Council
2 Members from Colchester City Council
2 Member from Essex County Council

7. Public speaking rights

7.1 Members of the public have the public speaking rights set out in Annex A.

7.2 The Committee shall have the power to amend the public speaking rights.

8. Voting

8.1 All members of the Committee shall be entitled to vote upon any decision due to be made by the Committee.

8.2 Every question shall be decided by a show of hands, subject to Rule 8.3.

8.3 If any member demands a named vote and is supported by two other members, the question shall be determined by a named vote and the Committee Service shall record and enter in the minutes the names of each member present and whether they voted for or against or abstained.

8.4 Any member may, immediately after any vote is taken, require a record to be made in the minutes of whether they voted for or against or abstained.

8.5 If there are equal numbers of votes for and against, the Chair will have a second and casting vote.

9.0 Tenure of office

9.1 A member shall cease to be a member of the Committee if the person—
(a) resigns in accordance with paragraph 9.3;
(b) is removed or replaced by the Council which made the appointment; or
(c) ceases to be a member of a constituent Council (and does not on the same day again become a member of that or any other Council).

9.2 A person who ceases to be a member of the Committee shall be eligible for reappointment.

9.3 A member may resign from the Committee by sending written notice delivered to the proper officer of the Council which appointed the member;

9.4 Any casual vacancy shall be filled as soon as practicable by the body which appointed the member of the Committee whose membership has ceased.

10. Minutes

10.1 The Chair will sign the minutes of the Committee at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record.

11. Exclusion of Public

11.1 Members of the public and press may only be excluded either in accordance with the Access to Information provisions of the Local Government Act 1972 (consideration of 'exempt information') or Rule 13 (Disturbance by Public).

12. Disorderly Conduct: Misconduct of a Member

12.1 If at any meeting of the Committee any member, in the opinion of the Chair, misconducts themselves by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Committee, the Chair or any other member may move "That the member named be not further heard", and the motion if seconded shall be put and determined without discussion.

12.2 If the member named continues their misconduct after a motion under the foregoing Rule has been carried, the Chair shall either move "that the member named do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion); or adjourn the meeting of the Committee for such period as in their discretion shall consider expedient.

12.3 In the event of a general disturbance which in the opinion of the Chair renders the due and orderly despatch of business impossible, the Chair, in addition to any other power vested in him/her, may adjourn the meeting of the Committee for such period as in their discretion shall consider expedient.

13. Disorderly Conduct: Disturbance by members of the public

13.1 If a member of the public interrupts the proceedings at any meeting the Chair shall warn them. If a member of the public continues the interruption the Chair shall order their removal from the meeting.

13.2 In case of a general disturbance in any part of the room open to the public the Chair shall order that part to be cleared.

14. Suspension of Standing Orders

14.1 Any of these Standing Orders may, so far as is lawful, be suspended by motion passed unanimously by those entitled to vote on the application in question. Any motion to suspend any part of these rules shall specify the purpose of their suspension. Any suspension shall only be to the extent and for the length of time necessary to achieve the stated purpose.

15. Attendance at the Committee by other members of the Councils

15.1. A member of any of the Councils who is not a member of the Committee may speak at a meeting of the Committee at the request or with the permission of the Committee or of its Chair made or obtained before the meeting. Such request or permission shall specify the matters in respect of which the member shall be permitted to speak.

16. Attendance at the Committee by Council Officers

16.1 The relevant Officers from the Councils will attend the Committee meetings to present the reports and advise the Committee in relation to its decision making.

17. Statements of Community Involvement

17.1 Public consultation in relation to pre application matters shall be dealt with in accordance with the Statement of Community Involvement or other appropriate procedures of the Council responsible for issuing the consent.

Annex A: Public Speaking Rights

Tendring Colchester Borders Garden Community
Joint Committee

PART A
Public Speaking Arrangements- General

1. Members of the public, who want to speak about an item which is to be considered at a meeting of the Committee can do so if they have notified the Committee Service by 12.00 noon on the working day before the meeting. Email: democraticservices@tendringdc.gov.uk or Telephone (01255) 686584 or 686585.

At the Committee Meeting

2. Agenda items for which there are public speakers are taken first, normally in the order of the agenda.

3. The Chair will invite public speakers to speak following the Officer's introduction to the report on the item. The Chair will ask public speakers to come to the table at the beginning of the discussion of the report of the relevant item.

4. Each public speaker will be allowed three minutes in which to make their representation. The Chair will tell the speaker when the three minutes has elapsed and the speaker must stop when requested by the Chair. The Chair has discretion to extend this time limit.

5. Following the public speakers, the Chair will invite any Ward and Division Councillors present to each speak for up to five minutes. The Chair will tell the Councillor when the five minutes has elapsed and the Councillor must stop when requested by the Chair. The Chair has discretion to extend this time limit.

6. A representative of the TCB Community Liaison Group and a representative from Parish and Town Councils within the Tendring Colchester Garden Community area will each be allowed five minutes in which to make their representation. The Chair will tell the representative when the five minutes has elapsed and the representative must stop when requested by the Chair. The Chair has discretion to extend this time limit.

7. All speakers should address the Chair of the Committee, which is the normal convention for Committees.

8. Public speakers should remember to:

- Keep to 3 minutes or whatever other period has been agreed.

- Highlight the main points they wish to raise and be as brief and concise as possible.
- Be courteous.

At the conclusion of the public speaking, the Committee will discuss and determine the item.

Tendring Colchester Borders Garden Community
Joint Committee

PART B
Public Speaking Arrangements- Planning Applications

1. Members of the public, or applicants or their agents, who want to speak about an application which is to be considered at a meeting of the Committee can do so if they have:

   (a) in the case of members of the public, already submitted a written representation on an application; and

   (b) notified the Committee Service by 12.00 noon on the day before the meeting.

2. A member of the public who has made a written representation on a planning application which is to be determined by the Committee, will be notified in writing about the committee date and their public speaking rights in the week before the Committee meeting.

At the Committee Meeting

3. A list of public speakers is available at the meeting. Agenda items for which there are public speakers are taken first, normally in the order of the agenda.

4. Each speaker will be allowed three minutes in which to make their representation. The Chair will tell the speaker when the three minutes has elapsed and the speaker must stop when requested by the Chair. The Chair has discretion to extend this time limit.

5. If more than one person wants to make a representation about the same application, then they should choose someone to act as a spokesperson. When several people wish to speak on the same application but wish to raise different issues, the Chair may agree to those speakers making representations. In these circumstances, less time may need to be given to each speaker.

6. The Chair will ask the speaker to come to the table at the beginning of the discussion of the report on the relevant application. The Chair will then invite them to speak following the Officer's introduction to the report on the application.

7. The speaker should address the Chair of the Committee, which is the normal convention for Committees.

8. Speakers should remember to:

   - Keep to 3 minutes or whatever other period has been agreed.
   - Keep to the planning issues raised by the application.
   - Highlight the main points they wish to raise and be as brief and concise as possible.
   - Be courteous.

   At the conclusion of the public speaking, the Committee will discuss and determine the planning application.

Appendix 1 to Part 3 of the Constitution

2000 No. 2853

LOCAL GOVERNMENT, ENGLAND

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000

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Made	*19th October 2000*
Laid before Parliament	*26th October 2000*
Coming into force	*16th November 2000*

The Secretary of State for the Environment, Transport and the Regions, in exercise of the powers conferred on him by sections 13 and 105 of the Local Government Act 2000 hereby makes the following Regulations:

Extent

Preamble: England

1. Citation, commencement, application and interpretation

(1) These Regulations may be cited as the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and shall come into force on 16th November 2000.

(2) These Regulations apply in relation to local authorities in England.

(3) In these Regulations:

"the 1972 Act" means the Local Government Act 1972;
"the 1998 Act" means the School Standards and Framework Act 1998 [;[…][2]][1]
["the 2000 Act" means the Local Government Act 2000;][3]
["the 2004 Act" means the Planning and Compulsory Purchase Act 2004 [;][4]][1]
["the 2005 Act" means the Gambling Act 2005 (c.19) [;[…][6]][5]][4]]
["the Gambling Act Order" means the Gambling Act 2005 (Commencement No.6 and Transitional Provisions) Order 2006 (S.I. 2006/3272)[7]; […][8]][6]
["the 2006 Act" means the Health Act 2006 [;and][9]][5]
["the 2007 Act" means the Local Government and Public Involvement in Health Act 2007.][9]

Notes

1 Definition inserted by Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2005/929 reg.2(2) (April 22, 2005)

2 Word revoked by Local Authorities (Functions and Responsibilities) (England) (Amendment) (No.2) Regulations 2007/1557 reg.2(2)(a) (July 1, 2007)

3 Definition inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2008/516 reg.3(1)(a) (March 31, 2008)

4 Definition added by Local Authorities (Functions and Responsibilities) (Amendment) (England) Regulations 2006/886 reg.2(2) (April 21, 2006)

5 Definition inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment) (No.2) Regulations 2007/1557 reg.2(2)(b) (July 1, 2007)

6 Definition inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2007/1950 reg.2(2) (September 1, 2007)

7 S.I. 2006/3272, to which there are amendments not relevant to these Regulations.

8 Word revoked by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2008/516 reg.3(1)(b) (March 31, 2008)

9 Definition inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2008/516 reg.3(1)(c) (March 31, 2008)

Commencement

reg. 1(1)-(3) definition of "the 1998 Act": November 16, 2000

Extent

reg. 1(1)-(3) definition of "the 2007 Act": England

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2. Functions not to be the responsibility of an authority's executive

(1) The functions of a local authority specified in column (1) of Schedule 1 to these Regulations by reference to the enactments, directions and circulars specified in relation to those functions in column (2) are not to be the responsibility of an executive of the authority.

(2) The functions of:
(a) imposing any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted

(i) in the exercise of a function specified in column (1) of Schedule 1; or
(ii) otherwise than by an executive of the authority, in the exercise of any function under a local Act; and

(b) determining any other terms to which any such approval, consent, licence, permission or registration is subject,

are not to be the responsibility of an executive of the authority.

(3) The function of determining whether, and in what manner, to enforce:

(a) any failure to comply with an approval, consent, licence, permission or registration granted as mentioned in paragraph (2)(a);
(b) any failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject; or
(c) any other contravention in relation to a matter with regard to which the function of determining an application for approval, consent, licence, permission or registration would not be the responsibility of an executive of the authority,

is not to be the responsibility of an executive of the authority.

(4) The function of:

(a) amending, modifying or varying any such approval, consent, licence, permission or registration as is mentioned in paragraph (2), or any condition, limitation or term to which it is subject; or
(b) revoking any such approval, consent, licence, permission or registration,

is not to be the responsibility of an executive of the authority.

(5) The function of making any scheme authorised or required by regulations under section 18 (schemes for basic, attendance and special responsibility allowances for local authority members) of the Local Government and Housing Act 1989[1], or of amending, revoking or replacing any such scheme, is not to be the responsibility of an executive of an authority.

(6) The function of determining:
(a) the amount of any allowance payable under
(i) subsection (5) of section 3 (chairman's expenses) of [, or paragraph 2(4) (chairman and mayor) of Schedule 2 to,][2] the 1972 Act;
(ii) subsection (4) of section 5 (vice-chairman's expenses) of [, or paragraph 5(4) (power of mayor of London borough to appoint deputy) of Schedule 2 to,][3] that Act;
(iii) subsection (4) of section 173 (financial loss allowance) of that Act[4];
(iv) section 175 (allowances for attending conferences and meetings) of that Act;
(b) the rates at which payments are to be made under section 174 (travelling and subsistence allowances) of that Act;
(c) the amount of any allowance payable pursuant to a scheme under section 18 of the Local Government and Housing Act 1989, or the rate at which payments by way of any such allowance are to be made;
(d) whether a charge should be made for any approval, consent, licence, permit or registration the issue of which is not the responsibility of an executive of the authority; and
(e) where a charge is made for any such approval, consent, licence, permit or registration, the amount of the charge,

Is not to be the responsibility of an executive of the authority.

[(6A) The function of making a request under section 14A(1) (requests for single-member electoral areas) of the Local Government Act 1992[6] for single-member electoral areas is not to be the responsibility of an executive of the authority.

(6B) The function of passing a resolution to change a scheme for elections under section 32(1), 37(1) or 39(1) (resolutions for schemes for elections) of the 2007 Act is not to be the responsibility of an executive of the authority.

(6C)-(6D) […][7]

(6E) The function of making an order giving effect to recommendations made in a community governance review under section 86 (reorganisation of community governance) of the 2007 Act is not to be the responsibility of an authority's executive.

(6F) The duty to make a change in governance arrangements under paragraph 3 or 8 of Schedule 4 to the 2007 Act is not to be the responsibility of an authority's executive.][5]

[(7) Section 101 (arrangements for discharge of functions by local authorities) of the 1972 Act shall not apply with respect to the discharge of any function mentioned in paragraph (5), (6)(a) to (c) or (6A), (6B), (6E) or (6F).][8]

(8) Subject to any provision of regulations under section 20 (joint exercise of functions) of the Local Government Act 2000, the function of:

(a) making arrangements for the discharge of functions by a committee or officer under section 101(5) of the 1972 Act; and

(b) making appointments under section 102 (appointment of committees) of the 1972 Act,

is not to be the responsibility of an executive of the authority.

(9) The functions of York City Council in relation to the management of the Yorkshire Museum and Gardens pursuant to an agreement dated 30th December 1960 between that Council and the Yorkshire Philosophical Society[9] are not to be the responsibility of an executive of that Council.

(10) The functions of South Lakeland District Council in relation to the management of land at Lake Windermere pursuant to an agreement dated 1st April 1975 between that Council, Windermere Parish Council and Lakes Parish Council[10] are not to be the responsibility of an executive of the District Council.

(11) Unless otherwise provided by any other provision of these Regulations, a function of a local authority which, by virtue of any enactment passed or made before the making of these Regulations, may be discharged only by an authority, is not to be the responsibility of an executive of the authority.

(12) In paragraphs (1) and (11), "enactment" includes an enactment contained in a local Act or comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).

Notes

1 Section 18 is amended by section 99(3) to (9) of the Local Government Act 2000.

2 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2008/516 reg.4(a)(i) (March 31, 2008)

3 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2008/516 reg.4(a)(ii) (March 31, 2008)

4 Section 173(4) was amended by the Local Government and Housing Act 1989 (c.42), Schedule 11, paragraph 26. A relevant saving was made by article 3(2) of the Local Government and Housing Act 1989 (Commencement No. 11 and Savings) Order 1991 (S.I. 1991/344).

5 Added by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2008/516 reg.4(b) (March 31, 2008)

6 1992 c.19. Section 14A of the Local Government Act 1992 was inserted by section 55 of the Local Government and Public Involvement in Health Act 2007.

7 Revoked by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2008/2787 reg.3(a) (November 28, 2008)

8 Substituted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2008/2787 reg.3(b) (November 28, 2008)

9 The agreement is referred to in regulation 5(2)(e)(ii) of the Local Government (Committees and Political Groups) Regulations 1990 (S.I. 1990/1553).

10 The agreement is referred to in regulation 5(2)(e)(iii) of the Local Government (Committees and Political Groups) Regulations 1990.

Commencement

reg. 2(1)-(12): November 16, 2000

Extent

reg. 2(1)-(12): England

3. Functions which may be the responsibility of an authority's executive

(1) The functions specified in Schedule 2 to these Regulations may be (but need not be) the responsibility of an executive of the authority.

(2) The functions of Hastings Borough Council in relation to the management of the Hastings and Saint Leonards Museum[1] may be (but need not be) the responsibility of an executive of the Council.

(3) Where the functions mentioned in paragraph (2) are the responsibility of the Council's executive, the Hastings and Saint Leonards Museum Association may appoint persons who are for the time being members of the Association to attend any meeting of an overview and scrutiny committee of that Council, or of a sub-committee or any such committee ("the relevant committee or sub-committee") at which the management of the Museum is the subject of consideration; and the persons so appointed shall, subject to paragraph (4), be entitled to speak and vote at the meeting on

any question relating to the management of the Museum which falls to be decided at that meeting.

(4) The number of persons appointed as mentioned in paragraph (3) shall as nearly as may be, bear to the number for the time being of members of the relevant committee or sub-committee, the same proportion as 2 bears to 5, but the number of persons representing the Association at any such meeting as is referred to in that paragraph as are entitled to vote shall not exceed the number of members of the relevant committee or sub-committee present at that meeting.

Notes

1 See also regulation 5(2)(e)(i) of the Local Government (Committees and Political Groups) Regulation 1990 (S.I. 1990/1553).

Commencement

reg. 3(1)-(4): November 16, 2000

Extent

reg. 3(1)-(4): England

4. Functions not to be the sole responsibility of an authority's executive

(1) In connection with the discharge of the function:

(a) of formulating or preparing a plan or strategy of a description specified in column (1) of Schedule 3 to these Regulations;

[(b) of formulating a plan or strategy for the control of the authority's borrowing, investments or capital expenditure or for determining the authority's minimum revenue provision; or][1]

(c) of formulating or preparing any other plan or strategy whose adoption or approval is, by virtue of regulation 5(1), a matter for determination by the authority,

the actions designated by paragraph (3) ("the paragraph (3) actions") shall not be the responsibility of an executive of the authority.

(2) Except to the extent of the paragraph (3) actions, any such function as is mentioned in paragraph (1) shall be the responsibility of such an executive.

(3) The actions designated by this paragraph are:

(a) the giving of instructions requiring the executive to reconsider any draft plan or strategy submitted by the executive for the authority's consideration;

(b) the amendment of any draft plan or strategy submitted by the executive for the authority's consideration;

[(bb) the approval, for the purposes of public consultation in accordance with regulation 10 or 22 of the Town and Country Planning (Development Plans) (England) Regulations 1999, of draft proposals associated with the preparation of alterations to, or the replacement of, a development plan,[3]][2]

(c) the approval, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, of any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted;[…][4]

[(ca) the approval, for the purpose of its submission to the Secretary of State for independent examination under section 20 (independent examination) of the 2004 Act, of a development plan document; and][4]

(d) the adoption (with or without modification) of the plan or strategy.

(4) The function of amending, modifying [, revising][5] , [varying, withdrawing or revoking][6] any plan or strategy of a description referred to in paragraph (1), (whether approved or adopted before or after coming into force of these Regulations)

(a) shall be the responsibility of an executive of the authority to the extent that the making of the amendment, modification [, revision][7,] [variation, withdrawal or revocation][8]

(i) is required for giving effect to requirements of the Secretary of State or a Minister of the Crown in relation to a plan or strategy submitted for his approval, or to any part so submitted; […][9]

[(ia) is recommended by the person carrying out, under section 20 of the 2004 Act, an independent examination of a development plan document; or][9]

(ii) is authorised by a determination made by the authority when approving or adopting the plan or strategy, as the case may be; and

(b) shall not be the responsibility of such an executive to any other extent.

[(4A) In connection with the discharge of functions under any of sections 28 to 31 (joint local development documents and joint committees) of the 2004 Act, the actions designated by paragraph 4(C) ("the paragraph (4C) actions") shall not be the responsibility of an executive of the authority.

(4B) Except to the extent of the paragraph (4C) actions, any such function as is mentioned in paragraph (4A) shall be the responsibility of such an executive.

(4C) The actions designated by this paragraph are:

(a) the making of an agreement to prepare one or more joint development plan documents;

(b) the making of an agreement to establish a joint committee to be, for the purposes of Part 2 (local development) of the 2004 Act, the local planning authority;

(c) where the authority is a constituent authority to a joint committee, the making of an agreement that the joint committee is to be, for the purposes of Part 2 of the 2004 Act, the local planning authority for any area or matter which is not the subject of an order under section 29 of the 2004 Act or an earlier agreement under section 30 of the 2004 Act; and

(d) the making of a request to the Secretary of State for the revocation of an order constituting a joint committee as the local planning authority for any area or in respect of any matter.

][10]

(5) Except to the extent mentioned in paragraph (6), the function of making an application:

(a) under subsection (5) of section 135 (programme for disposals) of the Leasehold Reform, Housing and Urban Development Act 1993[11] . [for the inclusion of a disposal in a disposals programme][12] or

(b) [for consent to that disposal][13] under section 32 (power to dispose of land held for the purposes of Part II) or section 43 (consent required for certain disposals not within section 32)

of the Housing Act 1985[14],

shall be the responsibility of an executive of the authority.

(6) The extent mentioned in this paragraph is the authorisation of the making of the application.

(7) The function of making such an application is referred to in paragraph (5), to the extent mentioned in paragraph (6), shall not be the responsibility of an executive of the authority.

(8) Section 101 of the 1972 Act shall not apply with respect to the discharge:

(a) of a function specified in paragraph (1) to the extent that, by virtue of that paragraph, it is not the responsibility of an executive of the authority;

[(b) of the functions specified in paragraphs (4), (4A) and (5) to the extent that they are not the responsibility of an executive of the authority.][15]

(9) In connection with the discharge of a function of:

(a) making a calculation in accordance with any of sections 32 to 37, 43 to 49, 52I, 52J, 52T and 52U of the Local Government Finance Act 1992[16], whether originally or by way of substitute; or

(b) issuing a precept under Chapter IV of Part I of that Act,

the actions designated by paragraph (11) ("the paragraph (11) actions") shall be the responsibility of an executive of the authority.

(10) Except to the extent of the paragraph 11 actions, any such function as is mentioned in paragraph (9) shall not be the responsibility of such an executive.

(11) The actions designated by this paragraph are:

(a) the preparation, for submission to the authority for their consideration of:

(i) estimates of the amounts to be aggregated in making the calculation or of other amounts to be used for the purposes of the calculation and estimates of the calculation; or

(ii) the amounts required to be stated in the precept;

(b) the reconsideration of those estimates and amounts in accordance with the authority's requirements;

(c) the submission for the authority's consideration of revised estimates and amounts.

[(12) The function, pursuant to an order under section 70 (functions of local authorities) of the Deregulation and Contracting Out Act 1994, of authorising a person to exercise a function to which that section applies ("section 70 function"):

(a) shall be the responsibility of an executive of the authority to the extent that the section 70 function is the responsibility of that executive; and

(b) shall not be the responsibility of such an executive to any other extent.

(13) The function of revoking such an authorisation as is referred to in paragraph (12):

(a) shall be the responsibility of an executive of the authority to the extent that the section 70 function is the responsibility of the executive; and

(b) shall not be the responsibility of such an executive to any other extent[18];

][17]

Notes

1 Substituted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2008/516 reg.6(1) (March 31, 2008)

2 Inserted subject to the operation of arrangements specified in SI 2001/2212 reg.1 by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2001/2212 reg.2(a)(i) (July 10, 2001 except in relation to local authorities as specified in SI 2001/2212 reg.1)

3 S.I. 1999/3280.

4 Added by Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2005/929 reg.2(3)(a) (April 22, 2005)

5 Word inserted by Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2005/929 reg.2(3)(b)(i) (April 22, 2005)

6 Words substituted by Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2005/929 reg.2(3)(b)(ii) (April 22, 2005)

7 Word inserted by Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2005/929 reg.2(3)(b)(iii)(aa) (April 22, 2005)

8 Words substituted by Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2005/929 reg.2(3)(b)(iii)(bb) (April 22, 2005)

9 Added by Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2005/929 reg.2(3)(b)(iii)(cc) (April 22, 2005)

10 Added by Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2005/929 reg.2(3)(c) (April 22, 2005)

11 To which there are amendments not relevant to these Regulations.

12 Words inserted subject to the operation of arrangements as specified in SI 2001/2212 reg.1 by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2001/2212 reg.2(a)(ii) (July 10, 2001 except in relation to local authorities as specified in SI 2001/2212 reg.1)

13 Words inserted subject to the operation of arrangements as specified in SI 2001/2212 reg.1 by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2001/2212 reg.2(a)(iii) (July 10, 2001 except in relation to local authorities as specified in SI 2001/2212 reg.1)

14 Relevant amendments, in subsection (3) of section 32 and subsection (1)(a) of section 43, were made by paragraph 3(a), (d) and (e) of the Schedule to S.I. 1997/74.

15 Substituted by Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2005/929 reg.2(3)(d) (April 22, 2005)

16 Sections 52I, 52J, 52T and 52U were inserted by the Local Government Act 1999 (c. 27)Schedule 1, paragraph 1.

17 Inserted subject to the operation of arrangements as specific in SI 2001/2212 reg.1 by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2001/2212 reg.2(a)(iv) (July 10, 2001 except in relation to local authorities as specified in SI 2001/2212 reg.1)

18 1994 c. 40. See also article 21 of the Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Further Provisions) (England) Order 2001 (S.I. 2001/2211).

Commencement

reg. 4(1)-(11)(c): November 16, 2000

Extent

reg. 4(1)-(13)(b): England

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5. Discharge of executive functions by authorities

(1) Subject to paragraph (2), a function of any of the descriptions specified in column (1) of Schedule 4 to these Regulations (which, but for this paragraph, might be the responsibility of an executive of the authority), shall not be the responsibility of such an executive in the circumstances specified in column (2) in relation to that function.

(2) Paragraph (1) shall not apply in relation to the discharge of a function of the description specified in paragraph 3 of column (1) of Schedule 4 where—

(a) the circumstances which render necessary the making of the determination may reasonably be regarded as urgent; and

(b) the individual or body by whom the determination is to be made has obtained from the chairman of a relevant overview and scrutiny committee or, if there is no such person, or if the chairman of every relevant overview and scrutiny committee is unable to act, from the chairman of the authority or, in his absence, from the vice-chairman, a statement in writing that the determination needs to be made as a matter of urgency.

(3) In paragraph (2) "relevant overview and scrutiny committee" means an overview and scrutiny committee of the authority concerned whose terms of reference include the power to review or scrutinise decisions or other actions taken in the discharge of the function to which the determination relates.

(4) The individual or body by whom a determination is made pursuant to paragraph (2) shall, as soon as reasonably practicable after the making of the determination, submit to the authority a report which shall include particulars of—

(a) the determination;
(b) the emergency or other circumstances in which it was made; and
(c) the reasons for the determination.

(5) Section 101 of the 1972 Act shall not apply with respect to the discharge of a function referred to in paragraph (1) which, by virtue of that paragraph, is not the responsibility of an executive of the authority.

Commencement

reg. 5(1)-(5): November 16, 2000

Extent

reg. 5(1)-(5): England

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

Hilary Armstrong
Minister of State,
Department of the Environment, Transport and the Regions

19th October 2000

SCHEDULE 1

FUNCTIONS NOT TO BE THE RESPONSIBILITY OF AN AUTHORITY'S EXECUTIVE

Regulation 2(1)

(1) Function	(2) Provision of Act or Statutory Instrument
A. Functions relating to town and country planning and development control	
[[...	**...**
...	**...**
...	**...**
...	**...]**[2]
5. Power to determine application for planning permission [or permission in principle][3].	[Sections 59A(1)(b), 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990 (c.8)][4].
6. Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.
7. Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990.
8. Power to decline to determine application for planning permission [or permission in principle][5].	Section 70A of the Town and Country Planning Act 1990.
9. 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 Act (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made thereunder.
10. Power to determine application for planning permission [or permission in principle][5] 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).
11. 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).
12. Power to enter into agreement regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.
13. 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.

(1) **Function**	(2) **Provision of Act or Statutory Instrument**
14. Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990.
15. 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 (S.I. 1992/666).
16. Power to authorise entry onto land	Section 196A of the Town and Country Planning Act 1990.
17. Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.
18. 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.
[18A. Power to issue a temporary stop notice.	[Section 171E of the Town and Country Planning Act 1990[8].] [7][6]
19. Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990.
20. Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990.
21. Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990.
22. 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 (c.34), paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c.25) and paragraph 6(5) of Schedule 14 to that Act.
23. Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.
24. Power to determine applications for listed building consent, and related powers.	[Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)][9].
[…]	…][10]

(1) **Function**	(2) **Provision of Act or Statutory Instrument**
26. Duties relating to applications for listed building consent […][11]	[Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)][9] and [regulations 3 to 6 and 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (S.I. 1990/1519][12] and [paragraphs 8, 15 and 26 of Development of the Environment, Transport and the Regions Circular 01/01][13]
27. Power to serve a building preservation notice, and related powers.	[Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9][9].
28. Power to issue enforcement notice in relation to demolition of [listed][14] building in conservation area.	[Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)][9].
29. 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 Conservation Areas) Act 1990 (c.9)][9].
30. Power to apply for an injunction in relation to a listed building.	[Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)][9].
[30A. Power to authorise stopping up or diversion of highway.	[Section 247 of the Town and Country Planning Act 1990 (c.8).][16]][15]
31. Power to execute urgent works.	[Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)][9].][1]
[32. Duty to enter land in Part 2 of the brownfield land register.	Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017.][17]
B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)	
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 (c.62).
2. Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936 (c.49)
3. Power to license hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847 (10 & 11 Vict. C.89), as extended by section 171 of the Public Health Act 1875 (38 & 39 Vic. C.55), and section 15 of the Transport Act 1985 (c.67); and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c.57); (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.

(1) **Function**	(2) **Provision of Act or Statutory Instrument**
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 pools promoters.	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 (c.2)[18] [as saved for certain purposes by article 3(3)(c) of the Gambling Act Order][19].
7. Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963[18] [as saved for certain purposes by article 3(3)(d) and (4) of the Gambling Act Order][20].
8. Power to license inter-track betting schemes.	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963[21] [as saved for certain purposes by article 3(3)(e) of the Gambling Act Order.][22]
9. Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968 (c.65)[18] [as saved for certain purposes by article 4(2)(l) and (m) of the Gambling Act Order][23].
10. Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 (c. 32)[18] [as saved for certain purposes by article 5(2)(a) and (3) of the Gambling Act Order][24]
11. Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976[18] [as saved for certain purposes by article 5(2)(d) and (5) of the Gambling Act Order][25].
12. Power to issue cinema and cinema club licences.	Section 1 of the Cinema Act 1985 (c.13).
13. Power to issue theatre licences.	Section 12 to 14 of the Theatres Act 1968 (c.54)[26].
14. Power to issue entertainment licences.	Section 12 of the Children and Young Persons Act 1933 (c.12), section 52 of, and Schedule 12 to, the London Government Act 1963 (c.33), section 79 of the Licensing Act 1964 (c.26), sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 (c.19) and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions Act 1982 (c.30).
[[14A Any function of a licensing authority][28]	[[Licensing Act 2003 (c.17) and any regulations or orders made under that Act][30].][29]][27]
[14AZA Powers and functions relating to late night levy requirements.	Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 (c.13) and any regulations made under that Chapter.][31]

(1) **Function**	(2) **Provision of Act or Statutory Instrument**
[14AA Duty to comply with requirement to provide information to Gambling Commission.	[Section 29 of the [2005 Act][34].][33]][32]
[14AB Functions relating to the exchange of information.	[Section 30 of the 2005 Act.]][36]][35]
[14AC Functions relating to occasional use notices.	[Section 39 of the 2005 Act.]][38]][37]
[14B Power to resolve not to issue a casino premises licence	Section 166 of the 2005 Act.]][39]
[14C. Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises.	[Section 304 of the 2005 Act.]][41]][40]
[14CA Power to make order disapplying section section 279 or 282(1) of the 2005 Act in relation to specified premises.	[Section 284 of the 2005 Act.]][43]][42]
[14D Power to institute criminal proceedings […][45]	[Section 346 of the 2005 Act.]][46]][44]
[14E Power to exchange information	[Section 350 of the 2005 Act.]][48]][47]
[14F Functions relating to the determination of fees for premises licences.	[The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 (S.I. 2007/479).][50]][49]
[… … … … …	… … … … …][51]
[14G Functions relating to the registration and regulation of small society lotteries.	[Part 5 of Schedule 11 to the 2005 Act.]][53]][52]
15. Power to licence 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 (c.46)

(1) **Function**	(2) **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).[54].
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 (c.x).
20. Power to licence 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 (c.xii).
21. Power to license night cafes and take-away food shops.	Section 2 of the Late Night Refreshment Houses Act 1969 (c.53)[55], Part II of the London Local Authorities Act 1990 and section 5 of the London Local Authorities Act 1994.
[…]	…][56]
23. Power to license dealers in game and the killing and selling of game.	Sections 5, 6, 17 and 18 and 21 to 23 of the Game Act 1831 (c.32); sections 2 to 16 of the Game Licensing Act 1860 (c.90), section 4 of the Customs and Inland Revenue Act 1883 (c.10), sections 12(3) and 27 of the Local Government Act 1874 (c.73), and section 213 of the Local Government Act 1972 (c.70).
24. Power of register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990 (c.16).
25. Power to license scrap yards.	Section1 of the Scrap Metal Dealers Act 1964 (c.69).
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)[57].
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 (c.27).
28. Power to issue fire certificates.	Section 5 of the Fire Precautions Act 1971 (c.40).

(1) **Function**	(2) **Provision of Act or Statutory Instrument**
29. Power to license premises for the breeding of dogs.	[Regulation 4 of those Regulations][58].
30. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	
31. Power to register animal trainers and exhibitors.	
32. Power to license zoos.	Section 1 of the Zoo Licensing Act 1981 (c.37)[60]
33. Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976 (c.38).
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 (c. 33), byelaws made under that Part, and Part II of the Children and Young Persons Act 1963 (c.37).
36. Power to approve premises for the solemnisation of marriages.	Section 46A of the Marriage Act 1949 (c.76) and the Marriages (Approved Premises) Regulations 1995 (S.I. 1995/510)[61]
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- (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 (b) an order under section 147 of the Inclosure Act 1845 (c.8 & 9 Vict. C. 118).	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)[62]
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 3 of the House to House Collections Act 1939 (c.44)[63]
40. Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c.40).

(1) **Function**	(2) **Provision of Act or Statutory Instrument**
41. Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991 (c.22).
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.
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).
[46A Power to grant permission for provision , etc of services, amenities, recreation and refreshment facilities on highways, and related powers.	[Sections 115E, 115F and 115K of the Highways Act 1980.][65]][64]
47. Power to permit deposit of builder's skips on highway.	Section 139 of the Highways Act 1980 (c.66).
[47A Duty to publish notice in respect of proposal to grant permission under section 115E of the Highways Act 1980.	[Section 115G of the Highways Act 1980[67]][66]] [64]
48. Power to license planting, retention and maintenance of trees etc. in part of highways.	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.[68]

(1) **Function**	(2) **Provision of Act or Statutory Instrument**
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 (c.35).
57. Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082)[69]
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)[70]
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 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)[71]
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 board 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.
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.

(1) **Function**	(2) **Provision of Act or Statutory Instrument**
[69. Power to issue near beer licence.	Sections 16 to 19 and 21 of the London Local Authorities Act 1995 (c.x.) and, to the extent that it does not have effect by virtue of regulation 2(3), section 25 of that Act.
70. Power to register premises or stalls for the sale of goods by way of competitive bidding.	Section 28 of the Greater London Council (General Powers) Act 1984 (c.xxvii).][72]
[71. Power to register motor salvage operators.	Part I of the Vehicles (Crime) Act 2001 (c.3).][73]
[72. Functions relating to the registration of common land and town or village greens.	Part 1 of the Commons Act 2006 (c.26) and the Commons Registration (England) Regulations 2008 (S.I. 2008/1961)[75].][74]
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)[76]
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).[77]
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 (c.29) 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.
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.	[Section 6(7) and (8) of the European Parliamentary Elections Act 2002 (c.24)][78]

(1) **Function**	(2) **Provision of Act or Statutory Instrument**
8. Duty to divide constituency into polling districts.	[sections 18A to 18E of, and Schedule A1 to, the Representation of the People Act 1983][79].
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.
[…]	…][80]
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 (c.2).
[18. Duty to consult on change of scheme for elections.	Sections 33(2), 38(2) and 40(2) of the 2007 Act.
19. Duties relating to publicity.	Sections 35, 41 and 52 of the 2007 Act.
20. Duties relating to notice to Electoral Commission.	Sections 36 and 42 of the 2007 Act.
21. Power to alter years of ordinary elections of parish councillors.	Section 53 of the 2007 Act.
22. Functions relating to change of name of electoral area.	Section 59 of the 2007 Act.][81]
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.

(1) **Function**	(2) **Provision of Act or Statutory Instrument**
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.
[[…	…
…	…
…	…
…	…
…	…
…	…
…	…
…	…][83]
EB. Functions relating to community governance	
1. Duties relating to community governance reviews.	Section 79 of the 2007 Act.
2. Functions relating to community governance petitions.	Sections 80, 83 to 85 of the 2007 Act.
3. Functions relating to terms of reference of review.	Sections 81(4) to (6).
4. Power to undertake a community governance review.	Section 82 of the 2007 Act.
5. Functions relating to making of recommendations.	Sections 87 to 92 of the 2007 Act.
6. Duties when undertaking review.	Sections 93 to 95 of the 2007 Act.
7. Duty to publicise outcome of review.	Section 96 of the 2007 Act.
8. Duty to send two copies of order to Secretary of State and Electoral Commission.	Section 98(1) of the 2007 Act.
9. Power to make agreements about incidental matters.	Section 99 of the 2007 Act.][82]

(1) **Function**	(2) **Provision of Act or Statutory Instrument**
[F. Power to make, amend, revoke, re-enact or enforce byelaws.][84]	Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978 (c.30)[85].
[*FA. Functions relating to smoke-free premises, etc*	
1. Duty to enforce Chapter 1 and regulations made under it.	Section 10(3) of the 2006 Act.
2. Power to authorise officers.	Section 10(5) of, and paragraph 1 of Schedule 2 to, the 2006 Act.
3. Functions relating to fixed penalty notices.	Paragraphs 13, 15 and 16 of Schedule 1 to the 2006 Act. Smoke-free (Vehicles Operators and Penalty Notices) Regulations 2007 (S.I. 2006/760).
4. Power to transfer enforcement functions to another enforcement authority.	Smoke-free (Premises and Enforcement) Regulations 2006 (S.I. 2006/3368.][86]
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 (c.11)[87].
[2. Functions under the Fire-fighter's Pension Scheme relating to pensions, etc as respects persons employed by fire and rescue authorities pursuant to section 1 of the Fire and Rescue Services Act 2004][88]	[Sections 34 and 36 of the Fire and Rescue Services Act 2004 (c.21)][89]
[I. Miscellaneous functions	
Part I: *functions relating to public rights of way*	
1. Power to create footpath [, bridleway or restricted byway][91] by agreement.	Section 25 of the Highways Act 1980 (c.60).
2. Power to create footpaths [, bridleways and restricted byways][91].	Section 26 of the Highways Act 1980.
3. Duty to keep register of information with respect to maps, statements and declarations.	Section 31A of the Highways Act 1980.

(1) **Function**	(2) **Provision of Act or Statutory Instrument**
4. Power to stop up footpaths [, bridleways and restricted byways][91]	Section 118 of the Highways Act 1980
5. Power to determine application for public path extinguishment order.	Sections 118ZA and 118C(2) of the Highways Act 1980.
6. Power to make a rail crossing extinguishment order.	Section 118A of the Highways Act 1980.
7. Power to make a special extinguishment order.	Section 118B of the Highways Act 1980.
8. Power to divert footpaths [, bridleways and restricted byways] [91]	Section 119 of the Highways Act 1980.
9. Power to make a public path diversion order.	Sections 119ZA and 119C(4) of the Highways Act 1980.
10. Power to make a rail crossing diversion order.	Section 119A of the Highways Act 1980.
11. Power to make a special diversion order.	Section 119B of the Highways Act 1980.
12. Power to require applicant for order to enter into agreement.	Section 119C(3) of the Highways Act 1980.
13. Power to make an SSSI diversion order.	Section 119D of the Highways Act 1980.
14. Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.	Section 121B of the Highways Act 1980.
15. Power to decline to determine certain applications.	Section 121C of the Highways Act 1980.
16. Duty to assert and protect the rights of the public to use and enjoyment of highways.	Section 130 of the Highways Act 1980.
17. Duty to serve notice of proposed action in relation to obstruction.	Section 130A of the Highways Act 1980.
18. Power to apply for variation of order under section 130B of the Highways Act 1980.	Section 130B(7) of the Highways Act 1980.
19. Power to authorise temporary disturbance of surface of footpath [, bridleway or restricted byway][91].	Section 135 of the Highways Act 1980.
20. Power temporarily to divert footpath [, bridleway or restricted byway][91].	Section 135A of the Highways Act 1980.
21. Functions relating to the making good of damage and the removal of obstructions.	Section 135B of the Highways Act 1980.

(1) **Function**	(2) **Provision of Act or Statutory Instrument**
22. Powers relating to the removal of things so deposited on highways as to be a nuisance.	Section 149 of the Highways Act 1980.
23. Power to extinguish certain public rights of way.	Section 32 of the Acquisition of Land Act 1981 (c.67).
24. Duty to keep definitive map and statement under review.	Section 53 of the Wildlife and Countryside Act 1981 (c.69).
25. Power to include modifications in other orders.	Section 53A of the Wildlife and Countryside Act 1981.
26. Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981.	Section 53B of the Wildlife and Countryside Act 1981.
[…]	…][91]
28. Power to prepare map and statement by way of consolidation of definitive map and statement.	Section 57A of the Wildlife and Countryside Act 1981.
29. Power to designate footpath as cycle track.	Section 3 of the Cycle Tracks Act 1984 (c.38).
30. Power to extinguish public right of way over land acquired for clearance.	Section 294 of the Housing Act 1981 (c.68).
31. Power to authorise stopping-up or diversion of footpath [, bridleway or restricted byway][91].	Section 257 of the Town and Country Planning Act 1990.
32. Power to extinguish public rights of way over land held for planning purposes.	Section 258 of the Town and Country Planning Act 1990.
33. Power to enter into agreements with respect to means of access.	Section 35 of the Countryside and Rights of Way Act 2000 (c.37).
34. Power to provide access in absence of agreement.	Section 37 of the Countryside and Rights of Way Act 2000.
Part II: *other miscellaneous functions*	
35. Functions relating to sea fisheries	Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966 (c.38).
36. Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972 (c.70).
37. Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal).	Section 112 of the Local Government Act 1972.

(1) **Function**	(2) **Provision of Act or Statutory Instrument**
38. Power to make standing orders as to contracts.	Section 135 of the Local Government Act 1972.
39. Duty to make arrangements for proper administration of financial affairs etc.	Section 151 of the Local Government Act 1972.
40. Power to appoint officers for particular purposes (appointment of "proper officers").	Section 270(3) of the Local Government Act 1972.
41. Power to make limestone pavement order.	Section 34(2) of the Wildlife and Countryside Act 1981 (c.69).
42. Power to make closing order with respect to take-away food shops.	Section 4 of the Local Government (Miscellaneous Provisions) Act 1982 (c.30).
43. Duty to designate officer as the head of the authority's paid service, and to provide staff, etc.	Section 4(1) of the Local Government and Housing Act 1989 (c.42).
44. Duty to designate officer as the monitoring officer, and to provide staff, etc.	Section 5(1) of the Local Government and Housing Act 1989.
[44A. Duty to provide staff, etc to persons nominated by monitoring officer.	[Sections 82A(4) and (5) of the Local Government Act 2000[94]][93].
44B. Powers relating to overview and scrutiny committee's (voting rights of co-opted members)	[paragraphs 12 and 14 of Schedule 1 to the Local Government Act 2000.][95]][92]
45. Duty to approve authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be).	The Accounts and Audit Regulations 1996 (S.I. 1996/590).
46. Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.I. 1997/1160).
47. Powers relating to the preservation of trees.	Section 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999 (S.I. 1999/1892)
[47A. Powers relating to complaints about high hedges.	Part 8 of the Anti-Social Behaviour Act 2003.][96]
48. Power to make payments or provide other benefits in cases of maladministration etc.	Section 92 of the Local Government Act 2000.][90]
[49. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.	Section 13(2) of the Criminal Justice and Police Act 2001 (c.16.][97]
[50. Power to make or revoke an order designating a locality as an alcohol disorder zone.	Section 16 of the Violent Crime Reduction Act 2006 (c.38).][98]
[51. Power to apply for an enforcement order against unlawful works on common land.	[Section 41 of the Commons Act 2006.][100]][99]

(1) **Function**	(2) **Provision of Act or Statutory Instrument**
[52. Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference. [53. Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens.	[Section 45(2)(a) of the Commons Act 2006.][102]] [101] [Section 45(2)(b) of the Commons Act 2006.] [104]] [103]

Notes

1 Substituted by Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2004/2211 Sch.1 para.1 (September 28, 2004)

2 Items revoked by Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2005/929 reg.2(4)(a) (April 22, 2005)

3 Words inserted by Town and Country Planning (Permission in Principle) (Amendment) Order 2017/1309 Sch.2 para.5(2)(a)(i) (June 1, 2018)

4 Word inserted by Town and Country Planning (Permission in Principle) (Amendment) Order 2017/1309 Sch.2 para.5(2)(a)(ii) (June 1, 2018)

5 Words inserted by Town and Country Planning (Permission in Principle) (Amendment) Order 2017/1309 Sch.2 para.5(2)(b) (June 1, 2018)

6 Words inserted by Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2005/929 reg.2(4)(b) (April 22, 2005)

7 Possible drafting error, words are purportedly inserted in item 18 but are more appropriate in item 18A and therefore the amendment is applied to item 18A by Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2005/929 reg.2(4)(c) (April 22, 2005)

8 1990 c.8. Section 171E was inserted by section 52 of the Planning and Compulsory Purchase Act 2004.

9 Words substituted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 4) Regulations 2007/2593 reg.2(2)(d) (October 2, 2007)

10 Item revoked by Enterprise and Regulatory Reform Act 2013 (Abolition of Conservation Area Consent) (Consequential and Saving Provisions) (England) Order 2013/2146 Sch.1 para.6(a) (October 1, 2013: revocation has effect subject to savings specified in SI 2013/2146 art.4 and SI 2013/148 art.5(4))

11 Words revoked by Enterprise and Regulatory Reform Act 2013 (Abolition of Conservation Area Consent) (Consequential and Saving Provisions) (England) Order 2013/2146 Sch.1 para.6(b) (October 1, 2013: revocation has effect subject to savings specified in SI 2013/2146 art.4 and SI 2013/148 art.5(4))

12 Words substituted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 4) Regulations 2007/2593 reg.2(2)(b)(i) (October 2, 2007)

13 Words substituted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 4)

Regulations 2007/2593 reg.2(2)(b)(ii) (October 2, 2007)

14 Word substituted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 4) Regulations 2007/2593 reg.2(2)(c) (October 2, 2007)

15 Words inserted by Local Authorities (Functions and Responsibilities) (Amendment No. 3) (England) Regulations 2004/2748 Sch.1(1) para.2(1)(a) (November 23, 2004)

16 Words inserted by Local Authorities (Functions and Responsibilities) (Amendment No. 3) (England) Regulations 2004/2748 Sch.1(1) para.2(1)(b) (November 23, 2004)

17 Entry inserted by Town and Country Planning (Brownfield Land Register) Regulations 2017/403 reg.19(2) (April 16, 2017)

18 To which there are amendments not relevant to these Regulations.

19 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2007/1950 reg.2(3)(a) (September 1, 2007)

20 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2007/1950 reg.2(3)(b) (September 1, 2007)

21 Schedules 5ZA was inserted by S.I. 1995/3231, article 5(6).

22 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2007/1950 reg.2(3)(c) (September 1, 2007)

23 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2007/1950 reg.2(3)(d) (September 1, 2007)

24 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2007/1950 reg.2(3)(e) (September 1, 2007)

25 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2007/1950 reg.2(3)(f) (September 1, 2007)

26 Amended by the Local Government Act 1972 , section 204(6) and the Local Government, Planning and Land Act 1980, section 1(6), Schedule 6 paragraph 11 and Schedule 34, Pt VI.

27 Words inserted by Local Authorities (Functions and Responsibilities) (Amendment No. 3) (England) Regulations 2004/2748 Sch.1(1) para.1(1)(a) (November 23, 2004)

28 Item substituted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2013/2190 reg.3(a) (October 1, 2013)

29 Words inserted by Local Authorities (Functions and Responsibilities) (Amendment No. 3) (England) Regulations 2004/2748 Sch.1(1) para.1(1)(b) (November 23, 2004)

30 Words substituted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2013/2190 reg.3(b) (October 1, 2013)

31 Entry inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2013/2190 reg.3(c) (October 1, 2013)

32 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2007/1950 reg.2(3)(g) (September 1, 2007)

33 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2007/1950 reg.2(3)(h) (September 1, 2007)

34 Words substituted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 4) Regulations 2007/2593 reg.2(3)(a) (October 2, 2007)

35 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2007/1950 reg.2(3)(i) (September 1, 2007)

36 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2007/1950 reg.2(3)(j) (September 1, 2007)

37 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2007/1950 reg.2(3)(k) (September 1, 2007)

38 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2007/1950 reg.2(3)(l) (September 1, 2007)

39 Entry inserted by Local Authorities (Functions and Responsibilities) (Amendment) (England) Regulations 2006/886 Sch.1(1) para.1 (April 21, 2006)

40 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2007/1284 reg.2(2)(a) (May 21, 2007)

41 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2007/1284 reg.2(2)(b) (May 21, 2007)

42 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2007/1950 reg.2(3)(m) (August 1, 2007)

43 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2007/1950 reg.2(3)(n) (August 1, 2007)

44 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2007/1284 reg.2(2)(c) (May 21, 2007)

45 Possible drafting error, entry 14D not 14E contains words revoked by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2007/1950 reg.2(3)(o) (September 1, 2007)

46 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2007/1284 reg.2(2)(d) (May 21, 2007)

47 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2007/1284 reg.2(2)(e) (May 21, 2007)

48 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2007/1284 reg.2(2)(f) (May 21, 2007)

49 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2007/1284 reg.2(2)(g) (May 21, 2007)

50 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2007/1284 reg.2(2)(h) (May 21, 2007)

51 Item revoked by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 4) Regulations 2007/2593 reg.2(3)(c) (October 2, 2007)

52 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2007/1950 reg.2(3)(p) (September 1, 2007)

53 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2007/1950 reg.2(3)(q) (September 1, 2007)

54 Amended by the Local Government Act 1974 (c.7), Schedule 6, paragraph 1, section 18 of the Local Government (Miscellaneous Provisions) Act 1976 (c.57) and section 186 of the Local Government, Planning and Land Act 1980 (c.65). Section 94(8) was substituted by the Deregulation (Public Health Acts Amendment Act) Order 1997 (S.I. 1997/1187).

55 Amended by the Local Government Act 1972, section 204(9) and the London Local Authorities Act 1990 (c. vii), section 20.

56 Entry revoked by Deregulation Act 2015 (Poisons and Explosives Precursors) (Consequential Amendments, Revocations and Transitional Provisions) Order 2015/968 Sch.1 para.4 (May 26, 2015)

57 Amended by the Fire Safety and Safety of Places of Sport Act 1987 (c.27). See, in particular, Part II of, and Schedule 2 to, that Act.

58 Entry substituted by Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018/486 Sch.9 para.12 (October 1, 2018)

60 Amended by the Local Government, Planning and Land Act 1980, Schedule 6, paragraph 6, and by section 3 of the Protection of Animals (Amendment) Act 1988.

61 Section 46A was inserted by section 1 of the Marriage Act 1994 (c.34).

62 Amended by S.I. 1968/658.

63 The 1939 Act was amended by the Local Government Act 1972, Schedule 29 paragraph 23. The 1916 Act and the 1939 Act are repealed (prospectively) by the Charities Act 1992 (c.41).

64 Words inserted by Local Authorities (Functions and Responsibilities) (Amendment No. 3) (England) Regulations 2004/2748 Sch.1(1) para.1(2)(a) (November 23, 2004)

65 Words inserted by Local Authorities (Functions and Responsibilities) (Amendment No. 3) (England) Regulations 2004/2748 Sch.1(1) para.1(2)(b)(i) (November 23, 2004)

66 Words inserted by Local Authorities (Functions and Responsibilities) (Amendment No. 3) (England) Regulations 2004/2748 Sch.1(1) para.1(2)(b)(ii) (November 23, 2004)

67 Sections 115E, 115F, 115G and 115K were inserted into the Highways Act 1980 (c. 66) by the Local Government (Miscellaneous Provisions) Act 1982 (c. 30), section 20, Schedule 5, Part I, paragraph 1.

68 Amended by section 22 of the Local Government (Miscellaneous Provisions) Act 1982 (c.30).

69 Amended by regulation 2 of the Meat Products (Hygiene) (Amendment) Regulations 1999 (S.I. 1999/683).

70 Amended by S.I. 1996/1699.

71 Schedule 1A was inserted by S.I. 2000/930.

72 Entries inserted subject to the operation of arrangements as specified in SI 2001/2212 reg.1 by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2001/2212 Sch.1(I) para.1 (July 10, 2001 except in relation to local authorities as specified in SI 2001/2212 reg.1)

73 Entry added by Motor Salvage Operators Regulations 2002/1916 reg.6 (October 21, 2002)

74 Entry inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2008/2787 reg.4 (November 28, 2008)

75 As to the commencement of Part 1 of the Commons Act 2006see in relation to England generally, the Commons Act 2006 (Commencement No. 3, Transitional Provisions and Savings) (England) Order 2007 (S.I. 2007/2584), and in relation to the pilot areas, the Commons Act 2006 (Commencement No. 4 and Savings) (England) Order 2008 (S.I. 2008/1960).

76 For the definition of “the relevant statutory provisions” see section 53(1) of the Health and Safety at Work etc. Act 1974. See also the definitions of “the existing statutory provisions” and “health and safety regulations” in section 53(1) and, as to “health and safety regulations”, section 15(1) of that Act which was substituted by the Employment Protection Act 1975 (c.71), Schedule 15, paragraph 5.

77 Subsection (4) of section 52 was substituted by the Representation of the People Act 1985 (c.50),

Schedule 4.

78 Words substituted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 4) Regulations 2007/2593 reg.2(4)(a) (October 2, 2007)

79 Words substituted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 4) Regulations 2007/2593 reg.2(4)(b) (October 2, 2007)

80 Item revoked by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 4) Regulations 2007/2593 reg.2(4)(c) (October 2, 2007)

81 Entries inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2008/516 reg.5(a) (March 31, 2008)

82 Entries inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2008/516 reg.5(b) (March 31, 2008)

83 Entry revoked by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2008/2787 reg.5 (November 28, 2008)

84 Words substituted by Local Authorities (Functions and Responsibilities) (Amendment) (England) Regulations 2006/886 Sch.1(1) para.2 (April 21, 2006)

85 Section 14 of the Interpretation Act 1978 is applied to byelaws made under section 235 of the Local Government Act 1972 by section 22(1) of, and paragraph 3 of Part I of Schedule 2 to, the Interpretation Act 1978.

86 Item inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 4) Regulations 2007/2593 reg.2(5) (October 2, 2007)

87 As to section 7see also section 99 of the Local Government Act 2000 (c.22). Section 12 of the Superannuation Act 1972 is amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990 (c.7).

88 Words substituted by Fire and Rescue Services Act 2004 (Consequential Amendments) (England) Order 2004/3168 art.53(a) (December 30, 2004)

89 Words substituted by Fire and Rescue Services Act 2004 (Consequential Amendments) (England) Order 2004/3168 art.53(b) (December 30, 2004)

90 Substituted subject to the operation of arrangements as specified in SI 2001/2212 reg.1 by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2001/2212 Sch.1(I) para.2 (July 10, 2001 except in relation to local authorities as specified in SI 2001/2212 reg.1)

91 Words substituted by Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006/1177 Sch.1(II) para.1 (July 2, 2006 in relation to England; July 11, 2006 otherwise)

92 Words inserted by Local Authorities (Functions and Responsibilities) (Amendment No. 3) (England) Regulations 2004/2748 Sch.1(1) para.2(2)(a) (November 23, 2004)

93 Words inserted by Local Authorities (Functions and Responsibilities) (Amendment No. 3) (England) Regulations 2004/2748 Sch.1(1) para.2(2)(b)(i) (November 23, 2004)

94 Sections 82A(4) and (5) of the Local Government Act 2000 (c. 22) were inserted by section 113 of the Local Government Act 2003 (c. 26).

95 Words inserted by Local Authorities (Functions and Responsibilities) (Amendment No. 3) (England) Regulations 2004/2748 Sch.1(1) para.2(2)(b)(ii) (November 23, 2004)

96 Entry inserted by Local Authorities (Functions and Responsibilities) (Amendment) (England) Regulations 2005/714 reg.2(2) (June 1, 2005)

97 Entry substituted by Local Authorities (Alcohol Consumption in Designated Public Places) Regulations

2007/806 reg.10(2)(b) (April 6, 2007)

98 Entry inserted by Local Authorities (Alcohol Disorder Zones) Regulations 2008/1430 Pt 6 reg.25 (June 5, 2008)

99 Entry inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2008/2787 reg.6(a) (November 28, 2008)

100 Entry inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2008/2787 reg.6(b) (November 28, 2008)

101 Entry inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2008/2787 reg.6(c) (November 28, 2008)

102 Entry inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2008/2787 reg.6(d) (November 28, 2008)

103 Entry inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2008/2787 reg.6(e) (November 28, 2008)

104 Entry inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2008/2787 reg.6(f) (November 28, 2008)

Commencement

Sch. 1 para. 1: November 16, 2000

Extent

Sch. 1 para. 1: England

SCHEDULE 2

FUNCTIONS WHICH MAY BE (BUT NEED NOT BE) THE RESPONSIBILITY OF AN AUTHORITY'S EXECUTIVE

Regulation 3(1)

1.
Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1.

Commencement

Sch. 2 para. 1: November 16, 2000

Extent

Sch. 2 para. 1: England

2.
The determination of an appeal against any decision made by or on behalf of the authority.

Commencement

Sch. 2 para. 2: November 16, 2000

Extent

Sch. 2 para. 2: England

3.
The appointment of review boards under regulations under subsection (4) of section 34 (determination of claims and reviews) of the Social Security Act 1998[1] .

Notes

1 Section 34(4) replaces section 63(3) of the Social Security Administration Act 1992. The Council Tax Benefit Regulations 1992 (S.I. 1992/1814) and the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971), to which there are amendments not relevant to these Regulations, continue to have effect, by virtue of section 17(2)(b) of the Interpretation Act 1978 (c.30), notwithstanding the repeal of section 63(3) of the Social Security Administration Act 1992.

Commencement

Sch. 2 para. 3: November 16, 2000

Extent

Sch. 2 para. 3: England

[4.

The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools[2].

]1

Notes

1 Substituted by Local Authorities (Functions and Responsibilities) (Amendment No. 3) (England) Regulations 2004/2748 Sch.1(2) para.1 (November 23, 2004)

2 See, in particular, section 52 of the Education Act 2002 (c. 32) and the subordinate legislation made under that section which replace section 67 of, and Schedule 18 to, the School Standards and Framework Act 1998 (c. 31) which have been repealed.

Commencement

Sch. 2 para. 4: November 16, 2000

Extent

Sch. 2 para. 4: England

[5.

The making of arrangements pursuant to sections 94(1), (1A) and (4) of the 1998 Act (admissions appeals)[2].

]1

Notes

1 Substituted by Local Authorities (Functions and Responsibilities) (Amendment No. 3) (England) Regulations 2004/2748 Sch.1(2) para.1 (November 23, 2004)

2 Section 94(1A) of the School Standards and Framework Act 1998 ("the SSFA 1998") was inserted by the Education Act 2002. See also subordinate legislation made under section 94(5) of the SSFA 1998, as substituted by the Education Act 2002, which replaces Schedule 24 to the SSFA 1998.

Commencement

Sch. 2 para. 5: November 16, 2000

Extent

Sch. 2 para. 5: England

[6.

The making of arrangements pursuant to section 95(2) of the 1998 Act (children to whom section 87 applies; appeals by governing bodies)[2].

] [1]

Notes

1 Substituted by Local Authorities (Functions and Responsibilities) (Amendment No. 3) (England) Regulations 2004/2748 Sch.1(2) para.1 (November 23, 2004)

2 Section 94(1A) of the School Standards and Framework Act 1998 ("the SSFA 1998") was inserted by the Education Act 2002. See also subordinate legislation made under section 94(5) of the SSFA 1998, as substituted by the Education Act 2002, which replaces Schedule 24 to the SSFA 1998.

Commencement

Sch. 2 para. 5: November 16, 2000

Extent

Sch. 2 para. 5: England

7.

The making of arrangements under section 20 (questions on police matters at council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a police authority.

Commencement

Sch. 2 para. 7: November 16, 2000

Extent

Sch. 2 para. 7: England

8.

The making of appointments under paragraphs 2 to 4 (appointment of members by relevant councils) of schedule 2 (police authorities established under section 3) to the Police Act 1996.

Commencement

Sch. 2 para. 8: November 16, 2000

Extent

Sch. 2 para. 8: England

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9. […][1]

Notes

1 Revoked by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2008/516 reg.7(a) (April 1, 2008)

10.

Any function relating to contaminated land[1].

Notes

1 Part IIA of the Environmental Protection Act 1990 (c.43) and subordinate legislation under that Part.

Commencement

Sch. 2 para. 10: November 16, 2000

Extent

Sch. 2 para. 10: England

11.

The discharge of any function relating to the control of pollution or the management of air quality[1].

Notes

1 See the Pollution Prevention and Control Act 1999 (c.24), Part IV of the Environment Act 1995 (c.25), Part I of the Environmental Protection Act 1990 (c.43) and the Clean Air Act 1993 (c.11).

Commencement

Sch. 2 para. 11: November 16, 2000

Extent

Sch. 2 para. 11: England

12.

The service of an abatement notice in respect of a statutory nuisance[1]

Notes

1 Section 80(1) of the Environmental Protection Act 1990.

Commencement

Sch. 2 para. 12: November 16, 2000

Extent

Sch. 2 para. 12: England

13.

The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area[1].

Notes

1 Section 8 of the Noise and Statutory Nuisance Act 1993 (c.40).

Commencement

Sch. 2 para. 13: November 16, 2000

Extent

Sch. 2 para. 13: England

14.

The inspection of the authority's area to detect any statutory nuisance[1].

Notes

1 Section 79 of the Environmental Protection Act 1990.

Commencement

Sch. 2 para. 14: November 16, 2000

Extent

Sch. 2 para. 14: England

15.

The investigation of any complaint as to the existence of a statutory nuisance[1].

Notes

1 Section 79 of the Environmental Protection Act 1990.

Commencement

Sch. 2 para. 15: November 16, 2000

Extent

Sch. 2 para. 15: England

16.

The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.

Commencement

Sch. 2 para. 16: November 16, 2000

Extent

Sch. 2 para. 16: England

17.

The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

Commencement

Sch. 2 para. 17: November 16, 2000

Extent

Sch. 2 para. 17: England

18.

The making of agreements for the execution of highways works[1].

Notes

1 Section 278 of the Highways Act 1980 (c.66), substituted by the New Roads and Street Works Act 1991 (c.22), section 23.

Commencement

Sch. 2 para. 18: November 16, 2000

Extent

Sch. 2 para. 18: England

19.

The appointment of any individual
(a) to any office other than an office in which he is employed by the authority;
(b) to any body other than
  (i) the authority;
  (ii) a joint committee of two or more authorities; or
(c) to any committee or sub-committee of such a body,
and the revocation of any such appointment

Commencement

Sch. 2 para. 19(a)-(c): November 16, 2000

Extent

Sch. 2 para. 19(a)-(c): England

[20.

The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.

]1

Notes

1 Inserted subject to the operation of arrangements as specific in SI 2001/2212 reg.1 by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2001/2212 Sch.1(II) para.1 (July 10, 2001 except in relation to local authorities as specified in SI 2001/2212 reg.1)

Extent

Sch. 2 para. 20: England

[21.

Any function of a local authority in their capacity as a harbour authority (to the extent that the function does not fall within paragraph 1 of this Schedule.

]1

Notes

1 Inserted subject to the operation of arrangements as specific in SI 2001/2212 reg.1 by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2001/2212 Sch.1(II) para.1 (July 10, 2001 except in relation to local authorities as specified in SI 2001/2212 reg.1)

Extent

Sch. 2 para. 21: England

[22.

Functions under section 106, 110, 111 and 113 of the 2007 Act relating to local area agreements.

]1

Notes

1 Added by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2008/516 reg.7(b) (March 31, 2008)

Extent

Sch. 2 para. 22: England

SCHEDULE 3

FUNCTIONS NOT TO BE THE SOLE RESPONSIBILITY OF AN AUTHORITY'S EXECUTIVE

Regulation 4(1)

(1) *Plans and strategies*	(2) *Reference*
Annual Library Plan	Section 1(2) of the Public Libraries and Museums Act 1964 (c.75)
Best Value Performance Plan	Section 6(1) of the Local Government Act 1999 (c.27)[1]
[Children and Young People's Plan][2]	[Children and Young People's Plan (England) Regulations 2005.][3]
[…]	…][4]
[…]	…][5]
Crime and Disorder Reduction Strategy	Sections 5 and 6 of the Crime and Disorder Act 1998 (c.37).
[Development plan documents[7]	[Section 15 of the 2004 Act.][8]][6]
[Licensing Authority Policy Statement][9]	[section 349 of the 2005 Act.][10]
[…]	…][11]
[…]	…][12]
[Local Transport Plan	Section 108(3) of the Transport Act 2000 (c.38).][13]
Plans and alterations which together comprise the Development Plan	(a) for Greater London and the metropolitan counties, section 27 of the Town and Country Planning Act 1990 (c.8)[14] (b) for districts outside Greater London and the metropolitan counties, section 54 of that Act.
[Sustainable Community Strategy	[Section 4 of the 2000 Act.][16]][15]
Youth Justice Plan	Section 40 of the Crime and Disorder Act 1998 (c.37)

Notes

1 See the Local Government (Best Value) Performance Plans and Reviews Order 1999 (S.I. 1999/3251). Relevant guidance issued under section 6(4) of the Local Government Act 1999 may be found in Department of the Environment, Transport and the Regions Circular 10/99.

2 Words substituted by Local Authorities (Functions and Responsibilities) (Amendment) (England) Regulations 2006/886 Sch.1(2) para.3(a) (April 21, 2006)

3 Words substituted by Local Authorities (Functions and Responsibilities) (Amendment) (England) Regulations 2006/886 Sch.1(2) para.3(b) (April 21, 2006)

4 Words revoked by Local Authorities (Functions and Responsibilities) (Amendment) (England) Regulations 2006/886 Sch.1(2) para.3(d) (April 21, 2006)

5 Entry revoked by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2008/516 reg.6(2)(b) (March 31, 2008)

6 Words inserted by Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2005/929 reg.2(5)(a) (April 22, 2005)

7 Functions relating to local development documents which are not development plan documents are the responsibility of the executive of an authority.

8 Words inserted by Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2005/929 reg.2(5)(b) (April 22, 2005)

9 Words substituted by Local Authorities (Functions and Responsibilities) (Amendment) (England) Regulations 2006/886 Sch.1(2) para.3(e) (April 21, 2006)

10 Possible drafting error - words are purportedly substituted in the entry for "Community Care Plan", but that entry has been repealed and the substitution is instead made in the new entry for "Licensing Authority Policy Statement" by Local Authorities (Functions and Responsibilities) (Amendment) (England) Regulations 2006/886 Sch.1(2) para.3(f) (April 21, 2006)

11 Words revoked by Local Authorities (Functions and Responsibilities) (England) (Amendment No. 2) Regulations 2008/744 reg.2(2)(b) (April 1, 2008)

12 Possible drafting error - words in column 2 of the revoked entry for "Education Development Plan" are revoked, and not the words in column 2 of the entry for "Licensing Authority Policy Statement" which are purportedly revoked by Local Authorities (Functions and Responsibilities) (Amendment) (England) Regulations 2006/886 Sch.1(2) para.3(h) (April21, 2006)

13 Inserted subject to the operation of arrangements as specific in SI 2001/2212 reg.1 by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2001/2212 Sch.1(III) para.1 (July 10, 2001 except in relation to local authorities as specified in SI 2001/2212 reg.1)

14 Relevant amendments are made by the Planning and Compensation Act 1991 (c.34), Schedule 4, paragraph 29.

15 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2008/516 reg.6(2)(e) (March 31, 2008)

16 Words inserted by Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2008/516 reg.6(2)(f) (March 31, 2008)

Commencement

Sch. 3 para. 1: November 16, 2000

Extent

Sch. 3 para. 1: England

SCHEDULE 4

CIRCUMSTANCES IN WHICH FUNCTIONS ARE NOT TO BE THE RESPONSIBILITY OF AN AUTHORITY'S EXECUTIVE

Regulation 5(1)

(1) *Function*	(2) *Circumstances*
1. The adoption or approval of a plan or strategy (whether statutory or non-statutory), other than a plan or strategy of a description referred to in regulation 4(1)(b) or Schedule 3.	The authority determines that the decision whether the plan or strategy should be adopted or approved should be taken by them.
2. The determination of any matter in the discharge of a function which:	The individual or body by whom, by virtue of any of sections 14 to 17 of the Local Government Act 2000 or provision made under section 18 or 20 of that Act, the determination is to be made
(a) is the responsibility of the executive; and (b) is concerned with the authority's budget, or their borrowing or capital expenditure.	(a) is minded to determine the matter contrary to, or not wholly in accordance with: (i) the authority's budget; or (ii) the plan or strategy for the time being approved or adopted by the authority in relation to their borrowing or capital expenditure; and (b) is not authorised by the authority's executive arrangements, financial regulations, standing orders or other rules or procedures to make a determination in those terms.
3. The determination of any matter in the discharge of a function:	The individual or body by whom, by virtue of any of sections 14 to 17 of the Local Government Act 2000 or provision made under section 18 or 20 of that Act, the determination is to be made, is minded to determine the matter in terms contrary to the plan or, as the case may be, the strategy adopted or approved by the authority.
(a) which is the responsibility of the executive; and (b) in relation to which a plan or strategy (whether statutory or non-statutory) has been adopted or approved by the authority.	

Commencement

Sch. 4 para. 1: November 16, 2000

Extent

Sch. 4 para. 1: England

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part II of the Local Government Act 2000 provides for the discharge of a local authority's functions by an executive of the authority (which must take one of the forms specified in section 11(2) to (5) of the Act), unless those functions are specified as functions that are not to be the responsibility of the authority's executive.

These Regulations specify functions that are not to be the responsibility of an authority's executive or are to be the responsibility of such an executive only to a limited extent or only in specified circumstances.

Regulation 2(1) of these Regulations provides that the functions listed in Schedule 1 ("Schedule 1 functions") are not to be the responsibility of an authority's executive.

Regulation 2(2) provides that the function of imposing conditions, limitations, restrictions or other terms on any approval, consent, licence, permission or registration granted in the exercise of Schedule 1 functions, or functions under a local Act (unless in that case the approval, consent, licence, permission or registration was granted by an authority's executive), is not to be the responsibility of an authority's executive

Regulation 2(3) provides that the function of determining whether, and in what manner, to enforce contraventions of approvals, consents, licences, permissions or registrations granted in the exercise of Schedule 1 functions, or functions under a local Act (unless in that case the approval, consent, licence, permission or registration was granted by an authority's executive), is not to be the responsibility of an authority's executive. It also provides that the function of determining whether, and in what manner, to enforce other contraventions, in relation to matters for which an approval, consent, licence, permission or registration should have been sought, is not to be the responsibility of an authority's executive where the approval, consent, licence, permission or registration could have been granted in the exercise of Schedule 1 functions.

Regulation 2(4) provides that the function of amending, modifying, varying or revoking any approval, consent, licence, permission or registration to which regulation 2(2) applies is not to be the responsibility of an authority's executive.

Regulation 2(5) provides that the function of making any scheme authorised or required by regulations under section 18 of the Local Government and Housing Act 1989 (schemes for basic, attendance and special responsibility allowances for local authority members) or of amending, revoking or replacing any such scheme, is not to be the responsibility of an authority's executive.

Regulation 2(6) provides that the functions of determining the amount of various allowances payable to members of local authorities under the Local Government Act 1972 ("the 1972 Act"), the rates at which certain payments under that Act by way of allowances are to be made, the amounts payable under schemes under section 18 of the Local Government and Housing Act 1989 and the rates of payments under such schemes, are not to be the responsibility of an authority's executive. It also provides that the function of determining whether a charge should be made for any approval,

consent, licence, permit or registration granted or issued in the exercise of Schedule 1 functions, and the amount of any such charge, are not to be the responsibility of an authority's executive.

The effect of regulation 2(7) is to prevent an authority from arranging for the discharge of the functions specified in regulation 2(5) or (6)(a) to (c) by a committee, sub-committee or officer. (Other functions referred to in regulation 2 which are not the responsibility of an authority's executive may be discharged by a committee, sub-committee or officer of the authority under arrangements under section 101 of the 1972 Act.)

Regulation 2(8) provides, within one exception, that the making of arrangements for the discharge of functions under section 101(5) of the 1972 Act and the appointment of committees under section 102 of the 1972 Act is not to be the responsibility of an authority's executive. The exception relates to provision made in regulations under section 20 of the Local Government Act 2000, which may allow the executive of an authority to make appointments under section 102 of the 1972 Act.

Regulation 2(9) and (10) makes special provision in relation to York City Council's functions relating to the management of the Yorkshire Museum and Gardens and to South Lakeland District Council's functions relating to the management of land at Lake Windermere. None of the functions referred to in those paragraphs is to be the responsibility of the relevant Council's executive.

Regulation 2(11) and (12) precludes an authority's executive from discharging functions which, in accordance with any public or local Act, or any subordinate legislation, must be discharged by the authority themselves, unless the discharge of the function by the executive is authorised by any other provision of these Regulations.

Regulation 3(1) provides that the functions mentioned in Schedule 2 may be (but need not be) the responsibility of an authority's executive.

Regulation 3(2) provides that Hastings Borough Council's functions relating to the management of the Hastings and Saint Leonard's Museum may be (but need not be) the responsibility of an authority's executive, and paragraphs (3) and (4) of that regulation make consequential and supplementary provision where those functions are the responsibility of the Council's executive.

Paragraphs (1) to (3) of regulation 4 allocate responsibility for various aspects of functions relating to the formulation and preparation of plans and strategies of the descriptions specified in Schedule 3 between an authority and their executive. They also apply to other plans and strategies whose adoption or approval is a matter for determination by the authority themselves in accordance with regulation 5(1). Paragraph (4) of regulation (4) allocates responsibility for the amendment, modification, variation or revocation of the plans and strategies specified in Schedule 3. Paragraphs (5) to (7) of regulation 4 make similar provision in relation to functions concerned with the disposal of an authority's housing land.

Where an aspect of a function referred to in paragraph (1), (4) or (5) of regulation 4 is not to be the responsibility of an authority's executive, paragraph (8) of that regulation has the effect that the authority may not arrange for it to be discharged by any of their committees, sub-committees or officers.

Paragraphs (9) to (11) of regulation 4 allocate responsibility for various aspects of functions relating to council tax, precepts and other calculations under the Local Government Finance Act 1992. To the extent that the function relates to the preparation and revision of estimates and other amounts for consideration by an authority it is to be the responsibility of an authority's executive. Other

aspects of the function, such as the setting of an amount of council tax for a financial year, are to be the responsibility of the authority.

Regulation 5(1) and Schedule 4 specify the circumstances in which certain functions, that would otherwise be the responsibility of an authority's executive, are not to be the responsibility of such an executive. The circumstances are listed in column (2) of Schedule 4, and the functions to which they relate are listed in column (1). An exception is provided in regulation 5(2) for certain determinations that need to be made as a matter of urgency. In those cases, the determination can be made by the authority's executive only with the prior written agreement of a chairman of a relevant overview and scrutiny committee (defined in regulation 5(3)) or, in specific circumstances, of the chairman or vice-chairman of the authority. Regulation 5(4) requires the individual or body by whom the determination is made to submit a report to the authority of the action taken.

The effect of regulation 5(5) is to prevent an authority from arranging for the discharge by a committee, sub-committee or officer of functions which, in accordance with regulation 5(1), are the responsibility of the authority.

Modifications

Provision	Modification	Notes	Further Information
reg. 2(1)	Local Government (Structural and Boundary Changes) (Staffing) Regulations 2008/1419, reg. 4(4)		
reg. 2(6E)	Local Government (Structural Changes) (Transitional Arrangements) Regulations 2008/2113, Sch. 1 para. 1(c)		Pt 2 reg. 6
Sch. 1 para. 1	Local Government (Structural Changes) (Transitional Arrangements) Regulations 2008/2113, Sch. 1 para. 1(d)		Pt 2 reg. 6
	Local Government (Structural Changes) (Transitional Arrangements) Regulations 2008/2113, Sch. 1 para. 1(e)		Pt 2 reg. 6
Sch. 2 para. 22	Local Government (Structural Changes) (Transitional Arrangements) Regulations 2008/2113, Sch. 1 para. 1(f)		Pt 2 reg. 6

COUNCIL PROCEDURE RULES

SECTION 1 – COUNCIL MEETINGS

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 on the third Tuesday after the elections. In any other year, the annual meeting will take place in April or May. No business except that identified below in this Rule and Rule 1.2 will be included on the Agenda of the Annual Council meeting and all other Council Procedure Rules shall be construed accordingly.

The annual meeting will:

(i) Receive a report from the Returning Officer on the return of Members elected (if it is the annual meeting following the District Council Elections);

(ii) Receive apologies for absence;

(iii) Elect a person to preside if the Chairman and Vice-Chairman of the Council are not present;

(iv) Receive any announcements from the retiring Chairman of the Council;

(v) Elect the Chairman of the Council for the ensuing year;

(vi) Elect the Vice-Chairman of the Council for the ensuing year;

(vii) Receive any announcements from the Chairman and/or the Chief Executive;

(viii) Receive notification of memberships of political groups and the names of the Group Leaders and their Deputies (if it is the annual meeting immediately following the District Council Elections);

(ix) Elect the Leader of the Council (if it is the annual meeting immediately following the District Council Elections);

(x) Selection of Councillors on Committees etc in accordance with Council Procedure Rule 1.2;

(xi) Reaffirm the Council's Constitution;

(xii) Approve a programme of ordinary meetings of the Council and Committees for the year;

(xiii) Appoint up to four Members, with each Member being a Member Authority Representative to serve on/at the General Assembly of the Local Government Association. Two of the Members appointed will always be the Leader and Deputy Leader of the Council. Up to two further names can be put forward to Council by the Leader of the Council, following consultation with Group Leaders; and

(xiv) Consider any other business set out in the notice convening the meeting.

1.2 Selection of Councillors on Committees

At the annual meeting, the Council will:

(i) Appoint the Committees and Sub-Committees it considers appropriate for the municipal year;

(ii) Decide the size and the terms of reference and delegated powers for any new Committees and Sub-Committees;

(iii) Decide the allocation of seats for all Committees and Sub-Committees to political groups in accordance with the political balance rules; and

(iv) Appoint Members to each Committee and Sub-Committee and the Chairman and Vice-Chairman of each Committee and Sub-Committee as appropriate.

2. <u>BUDGET AND COUNCIL TAX SETTING</u>

At the relevant ordinary meeting of the Council, when the Council's Budget and Council Tax is approved and set, no business except that identified below will be included on the Agenda of the Budget and Council Tax Setting Meeting and all other Council Procedure Rules shall be construed accordingly. The Budget and Council Tax Setting Meeting shall:

(i) Receive apologies for absence;

(ii) Elect a person to preside if the Chairman and Vice-Chairman of the Council are not present;

(iii) Deal with any business required by Statute to be dealt with before any other business;

(iv) Approve the minutes of the last meeting;

(v) Receive any announcements from the Chairman and/or the Chief Executive and any Statements from the Leader of the Council and/or members of the Cabinet;

(vi) Approve and set the Council's Budget and Council Tax;

(vii) Deal with any business remaining from the last Council meeting; and

(viii) Consider any Urgent Matters for Debate

Matters which are not on the agenda and which a Member considers should be reported urgently to the Council may, with the consent of, and in a form approved by, the Chairman, be brought before the meeting by way of a short written statement which shall be read by the Chief Executive, Section 151 Officer or the Monitoring Officer, as part of his or her reports and communications. The Member concerned may, by leave of the Chairman, speak on the statement and move a motion unless advised otherwise by the Chief Executive, Section 151 Officer or Monitoring Officer.

Any amendment proposed to be made to the Cabinet's budget proposals must have been submitted to the Council's Section 151 Officer at least two working days before the Budget Full Council meeting(s) to enable them to consider the implications for the budget. The text and form of any and all such amendments must be emailed to the Democratic Services Manager by no later than 5.00 p.m. on the day of the Budget Full Council meeting in order that copies of same can be printed and placed on Members' seats prior to the commencement of the Council meeting.

In addition, the text of the Leader of the Council's budget presentation speech must also be emailed to the Democratic Services Manager by no later than 5.00 p.m. on the day of the Budget Full Council meeting in order that copies of same can be printed and placed on Members' seats prior to the commencement of the Council meeting. The Democratic Services Manager will also email the speech to all Members of the Council as soon as possible after they receive it from the Leader of the Council.

3. ORDINARY MEETING

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Such programmes shall ensure that the first ordinary meeting is held within 15 working days of the annual meeting of the Council except in a year when there is an ordinary election of Councillors. The order of business at every ordinary meeting of the Council be as follows:

(i) To receive apologies for absence:

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

(iii) To deal with any business required by Statute to be dealt with before any other business;

(iv) To approve the minutes of the last meeting (or in the case of the first ordinary meeting of the municipal year, to approve the minutes of the Annual meeting and the preceding meeting);

(v) To receive any announcements from the Chairman and the Chief Executive and any statements from the Leader and Members of the Cabinet;

(vi) To deal with any Petitions;

(vii) In accordance with Rule 10, to 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;

(viii) To receive a report from the Leader on any Cabinet decisions taken as a matter of urgency in accordance with Access to Information Procedure Rule 16.2, Budget and Policy Framework Procedure Rule 6(b) and Overview and Scrutiny Procedure Rule 18(i);

(ix) To deal with any business from the last Council meeting;

(x) To receive the minutes of Committees (with the exception of the Licensing and Registration and Planning Committees) and to receive questions and answers from Councillors on any of those items;

(xi) To receive reports about and receive questions and answers on the business of joint arrangements and external organisations;

(xii) To consider motions (in the order in which notice has been received);

(xiii) To consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework, other reports from the Cabinet, reports of the Overview and Scrutiny Committees, or other Committees for debate and reports from Officers for consideration;

(xiv) To receive questions from Members in accordance with Rule 11.2; and

(xv) Urgent matters for Debate

Matters which are not on the Agenda and which a Member considers should be reported urgently to the Council may, with the consent of, and in a form approved by, the Chairman, be brought before the meeting by way of a short written statement which shall be read by the Chief Executive, Section 151 Officer or Monitoring Officer, as part of his or her reports and communications. The Member concerned may, by leave of the Chairman, speak on the statement and move a motion unless advised otherwise by the Chief Executive, Section 151 Officer or Monitoring Officer.

With the exception of items (i) (ii) (iii) and (iv), the order of items may be varied at the discretion of the Chairman or by a resolution passed on a motion (which need not be in writing) duly moved and seconded, which shall be put without discussion. At the last ordinary

meeting of the Council in the municipal year, following item (v) the meeting will receive the annual State of Tendring Statement from the Leader.

4. EXTRAORDINARY MEETINGS

4.1 Calling Extraordinary Meetings

An extraordinary meeting of the Council may be called in the following circumstances:-

1. An extraordinary meeting of the Council may be called at any time by the Chairman of the Council.

2. If the Chairman refuses to call an extraordinary meeting of the Council after a requisition for that purpose, signed by five members of the Council, has been presented to him, or if, without so refusing, the Chairman does not call an extraordinary meeting within seven days after the requisition has been presented to him, then any five members of the Council, on that refusal or on the expiration of those seven days, as the case may be, may forthwith call an extraordinary meeting of the Council.

3. The Council by resolution; and

4. The Monitoring Officer in circumstances where a Section 5 report is to be presented.

4.2 Holding Extraordinary Meetings in the corresponding circumstances set out above

1. The Chairman of the Council, in consultation with the Chief Executive, will decide the date of the meeting.

2. Where such a request is received the meeting will be held within 14 days of the receipt of the call for an extraordinary meeting from those five members of the Council.

3. The Council as part of its resolution will fix the date of the extraordinary meeting or will delegate that matter to the Chairman of the Council.

4. Where such a request is received the meeting will be held within 14 days of the receipt of the call for an extraordinary meeting from the Monitoring Officer.

4.3 Order of Business

(i) To receive apologies for absence;

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

(iii) To deal with any business required by Statute to be dealt with before any other business;

(iv) To consider any other business specified in the summons to the meeting.

5. <u>TIME AND PLACE OF MEETINGS</u>

The time and place of Council meetings will be notified in the summons.

Meetings will normally be held at 7.30 p.m. in the Princes Theatre, Town Hall, Clacton-on-Sea and the Council may, from time to time, vary the place, date or hour of a meeting or meetings. Where it is not practicable for the Council to meet to agree a variation, such variation shall be determined by the Chairman (or failing him the Vice-Chairman) of the Council.

In accordance with the approved Protocol for such matters, the Council will make audio and/or audio-visual live stream and recording of meetings of the Full Council, which will be made available on the Council's website for a period of at least one year from the date of the relevant meeting.

6. NOTICE OF AND SUMMONS TO MEETING

The Democratic Services Manager will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. In addition to sending an electronic notification, at least five clear days before a meeting, the Democratic Services Manager will send a summons by post to every member of the Council or leave it at their usual place of residence. Although this is the default position, all members of the Council are encouraged to opt out of receiving paper copies and elect to solely receive the summons via electronic notification at least five clear working days before the meeting. 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. CHAIRING OF MEETINGS

The person presiding may exercise any power or duty of the Chairman. Where these rules apply to Committee and Sub-Committee meetings, references to the Chairman also include the Chairman of Committees and Sub-Committees.

8. QUORUM

The quorum of a meeting will be one quarter of the whole number of Members, subject always to a minimum of three Members.

If, at the scheduled commencement time of the meeting, there is not a quorum present, the Chairman will be permitted to delay the start of proceedings for up to a maximum period of 15 minutes. This will be in order to allow time for Members, who may have been delayed for some reason, to arrive. If, at the end of that 15 minute period, the Chairman counts the number of Members present and again declares there is not a quorum present the Chairman will declare the meeting to be null and void and cancelled for administrative purposes. The business will stand to be considered at a new time and date to be fixed by the Chairman. If

the Chairman does not fix such a date, the business will be considered at the next ordinary meeting.

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. The Chairman will decide at that point the duration of that adjournment. If it is not possible to resume the meeting on that date any remaining business will be considered at a time and date to be fixed by the Chairman. If the Chairman does not fix a date, the remaining business will be considered at the next ordinary meeting.

9. DURATION OF MEETING

9.1 The business of ordinary meetings of the Council shall cease at 10.30 p.m. (or after a duration of three hours, whichever is the earliest) on the day on which the meeting commenced, or such earlier, or later, time as the Chairman shall consider appropriate. In the event that the Chairman wishes to extend the meeting beyond 10.30 p.m. (or beyond three hours) they will be expected to give an indication of the length of that extension and secure the consent of the Council in doing so.

9.2 When the business of a meeting is terminated in accordance with 9.1 above any remaining business shall stand adjourned until a date and time to be fixed by the Chairman.

9.3 Where 9.2 applies, given that the agenda and associated reports and papers for the original meeting have been published, the adjourned meeting can be called as soon as practicable and without necessary delay, having regard to the remaining business and venue availability. In the case of Committees and Sub-Committees, where Substitutes have been appointed the same Members should attend (the Substituted Members must not take their seats).

9.4 Notice of the adjourned meeting will be published on the Council's website, unless the adjourned meeting is held within 24 hours.

10. QUESTIONS BY THE PUBLIC

10.1 Scope of Questions and Time Allocated in the Meeting

Members of the public may ask questions of the relevant Members of the Cabinet or the Leader or Committee Chairmen on any matter in relation to which the Council has powers or duties or which affects the Tendring District. The time limit for the asking of each question is two minutes and for the reply, five minutes. The Chairman shall determine the number of questions to be tabled at a particular meeting in order to limit the time for questions and answers to 21 minutes.

Questions shall not be submitted to the Annual Meeting of the Council or to an Extraordinary Meeting of the Council or to the Budget and Council Tax setting meeting of the Council.

10.2 Order of Questions

Questions will be asked in the order in which notice of them was received, except that the Chairman may group together similar questions.

10.3 Notice of Questions

A question may only be asked if notice has been given by delivering it in writing or by personal e-mail to the Democratic Services Manager no later than midday 8 working days before the day of the meeting. Each question must give the name and address of the questioner and must name the Member of the Council to whom it is to be put.

10.4 Number of Questions

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

10.5 Reasons for Rejection of Questions

The Democratic Services Manager and/or Monitoring Officer may reject a question if in their judgement it:

(a) is not about a matter for which the local authority has a responsibility or which affects the District;

(b) is defamatory, frivolous or offensive;

(c) is substantially the same as a question already received to be put to the ordinary meeting of the Council in question;

(d) is substantially the same as a question which has been put at a meeting of the Council in the past six months;

(e) requires the disclosure of confidential or exempt information; or

(f) the question is about a matter that is subject to call in or ongoing legal proceedings.

10.6 Record of Questions

The Democratic Services Manager will keep a copy of each question for six years after the meeting at which the question was put 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.

10.7 Asking the Question at the Meeting

All questions will be set out in the agenda and the Chairman will invite the questioner to put the question to the Member named in the notice. There will be no further questions or debate. If the questioner is not present, 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 Written Answers

Any question that cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member, to whom it was to be put, will be dealt with by a written answer, with a copy circulated to all Members.

10.9 Reference of Question to the Cabinet or a Committee

No discussion will take place on any question, but any Member may formally, without discussion, move that a matter raised by a question be referred to the Cabinet or the appropriate Committee. Once seconded, such a motion will be voted on without discussion.

10.10 Withdrawal of Question

A member of the public may withdraw their question by giving notice of their wish to do so to the Democratic Services Manager prior to the commencement of the meeting at which their question is to be put.

11. <u>QUESTIONS BY MEMBERS</u>

11.1 On Statements made by the Leader or a Member of the Cabinet to the Council, Reports or References from the Cabinet or Minutes of Committees

A Member of the Council may ask the Leader or a Member of the Cabinet any question without notice about any statement made by the Leader or a Member of the Cabinet to the Council when that item is being received.

A Member of the Council may ask the Leader or a Member of the Cabinet or the Chairman of a Committee any question without notice upon a report or recommendation of the Cabinet or the minutes or reference from a Committee when that item is being received by the Council.

Supplementary Questions will not be permitted under this rule.

11.2 Scope of Questions on Notice at Full Council and Time Allocated in the Meeting

Subject to Rules 11.3, 11.4 and 11.5 a Member of the Council may ask:-

- the Chairman;
- a Member of the Cabinet; and
- the Chairman of any Committee;

a question on any matter, which is within their area of responsibilities as set out in Part 3 of the Constitution, in relation to which the Council has powers or duties or which affects the Tendring District.

Only the text of the Questions will be included within the full Council Agenda and in the order in which the questions from Members were received. None of the accompanying preamble or explanatory statements (if any) submitted by the Questioner(s) will be so included.

The time allocated for receiving and disposing of questions shall be a maximum 30 minutes. Any question not disposed of at the end of this time shall be the subject of a written response, copied to all Members the following working day unless withdrawn by the questioner. The Question(s), together with the relevant written response(s), will also be published to the Council's website and will also be reported to the next meeting of the Council, as an "information only item", by the Democratic Manager. The provisions of this paragraph will also apply in those instances when the full Council meeting has had to be cancelled.

Questions shall not be submitted to the Annual Meeting of the Council or to an Extraordinary Meeting of the Council or to the Budget and Council Tax setting meeting of the Council.

11.3 Notice of Questions

A Member may only ask a question under Rule 11.2 if either:

(a) notice has been given by delivering it in writing (or by personal e-mail) to the Democratic Services Manager no later than midday 8 (eight) working days before the day of the meeting; or

(b) the question relates to urgent matters, he has the consent of the person to whom the question is to be put and the content of the question is given to the Democratic Services Manager by noon on the day of the meeting.

11.4 Number of Questions

At any one meeting no Councillor may submit more than two questions.

11.5 Reasons for rejection of Questions

(a) the question is not about a matter for which the local authority has responsibility or which affects the District;

(b) The Monitoring Officer will reject a question if in their judgement it could be considered to be defamatory or offensive or requires the disclosure of confidential or exempt information (as defined in the Access to Information Procedure Rules);

(c) the Monitoring Officer will reject a question if in their judgment it is substantially the same as a question already received to be put to the ordinary meeting of the Council in question;

(d) The Monitoring Officer will reject a question if in their judgement it is substantially the same as a question which has been put at a meeting of the Council in the past six months;

(e) The Monitoring Officer will reject a question if in their judgement it is likely to lead to a breach of the Members' Code of Conduct; or

(f) the question is about a matter that is subject to call in or ongoing legal proceedings.

11.6 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; or

(c) where a reply cannot conveniently be given orally, a written answer given later to all Members.

The Member giving the response must provide an electronic or written copy of that response to the Democratic Services Manager by Noon on the day of the meeting in order to enable the

response to be circulated to the Questioner, the Chairman of the Council, the Leader of the Council and relevant Officers.

11.7 Recording of Questions and Responses and Questions of Clarification

After the response has been given to a Question on Notice, the Member who asked the question may ask one question, of which no notice is required. That question must solely relate to clarifying the response received. No statements or other form of question will be allowed. The ruling of the Chairman on the admissibility of the question is final.

The minutes of the meeting will record the text of the question plus any preamble or supporting statement (if any) together with the response given thereto and that, if appropriate, a question of clarification and a response was asked and given, without detailing the content.

11.8 Time Limits for Asking/Answering Questions

The time limit for asking each question (including any preamble or statements in support) is two minutes and the time limit for each reply is three minutes.

11.9 Withdrawal of Question

A Member may withdraw their question by giving notice of their wish to do so to the Democratic Services Manager prior to the commencement of the meeting at which their question is to be put.

Once the meeting has commenced a Member may withdraw their question with the consent of the Chairman.

12. MOTIONS ON NOTICE

12.1 Scope of the Motion

Any Motion to Council submitted in accordance with this Rule must be about a matter(s) for which the Council has a responsibility, or which affects the District of Tendring, or is about a matter(s) of regional, national or international importance which could be reasonably considered to affect residents of the District and upon which a Member wishes the Council to undertake an action or to make its views and opinions publicly known.

12.2 Notice of the Motion

No Member shall, under the provisions of this Rule, submit more than one motion for consideration at any ordinary meeting of the Council.

A maximum of two motions shall be accepted for inclusion in an agenda for an Ordinary Meeting of the Council under this Procedure Rule. Motions cannot be submitted to the annual meeting of the Council or to the Budget and Council Tax setting meeting of the Council.

Except for a motion which can be moved without notice under Rule 13 (Motions without Notice), written and signed notice (or notice by personal email) of the motion by the Member or members submitting it, must be delivered to the Democratic Services Manager by no later than the initial deadline of midday ten working days before the date of the ordinary meeting of the Council. This initial deadline is to allow a period of time for Officers to consider the wording of the motion and to offer appropriate guidance, if necessary, and as detailed below. If submitted by email the motion should be sent to democraticservices@tendringdc.gov.uk .

The Monitoring Officer and/or the Democratic Services Manager (or in their absence the Assistant Director Corporate Policy and Support) are authorised and encouraged under this Rule to offer guidance and assistance to the Member(s) as to the wording of their Motion (in order to make it clear and obvious [as also referenced in Rule 12.7 below] what the Council's powers are should the Motion relate to an Executive function and/or to generally make the motion acceptable as a valid motion). The Member(s) submitting the Motion will be informed of the Officers' guidance as soon as possible and they will have until the final deadline of midday eight working days before the day of the ordinary meeting of the Council to notify the Officers whether they accept the Officers' advice.

The Monitoring Officer and/or the Democratic Services Manager (or in their absence the Assistant Director Corporate Policy and Support) will then formally decide whether to accept the motion as a valid motion having had regard to the provisions of Rule 14 (Motions not Permitted).

12.3 Motion set out in Agenda

Valid motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member(s) in giving that notice states, in writing, that they wish it to be included on the Agenda of a future ordinary meeting of the Council.

12.4 Withdrawal of the Motion

Prior to the publication of the Agenda for the ordinary meeting of the Council in question (which will be at least five clear, working days before the meeting) the Member or Members may withdraw their Motion by notifying the Democratic Services Manager of their wish to do so. This notification must be submitted to the Democratic Services Manager by a written and signed notice (or notice by e-mail to democraticservices@tendringdc.gov.uk).

Once the Agenda for the ordinary meeting of the Council in question has been published the Motion can only be withdrawn at the Council meeting itself in accordance with the provisions of Council Procedure Rule 16.7 (Withdrawal of Motion).

12.5 Professional Advice of the Council's Statutory Officers on the Motion

Once the Motion has been accepted as being valid by the Monitoring Officer and/or the Democratic Services Manager a formal Advisory Note detailing any necessary initial professional advice in relation to the implications for the Council of that Motion will be prepared by the Council's Statutory Officers, with the Monitoring Officer acting as the lead officer in the compilation of that Advisory Note.

In that regard:-

(i) the Head of Paid Service (i.e. the Chief Executive) will give any necessary professional advice on implications for the Council in respect of his responsibilities in relation to staffing matters;
(ii) the Monitoring Officer will give any necessary professional advice on implications for the Council in respect of budgetary, constitutional or legislative requirements; and
(iii) the Section 151 Officer will give any necessary professional advice on implications for the Council relating to budgetary, constitutional or legislative requirements.

That Advisory Note will be circulated, if possible, to all Members of the Council as part of the Council Agenda Document Pack. If this is not possible, then the Advisory Note will be circulated to Members as soon as possible thereafter but in any case no later than Noon on the working day before the date of the Council meeting.

The Advisory Note will also be published on the Council's website (unless of course the Exempt Information provisions apply).

At the meeting itself, Council must have regard to the contents of the Advisory Note in making its decision on the Motion, as set out in Section 3.7 of the Members' Code of Conduct.

12.6 Consideration of the Motion at an Ordinary Meeting of the Council

At the meeting itself the Chairman will invite the Member who submitted the motion to formally move it and then to proceed to read out the text of the Motion (for the benefit of the public who are either watching proceedings from the public gallery or via the livestream). The Member who moved the motion will not be required to explain its purpose at this stage of the proceedings.

The Chairman will then ask for a seconder for the motion. If there is no seconder then the motion will be declared by the Chairman as having failed and the Chairman will immediately move onto the next business on the agenda.

In the event that the Motion is not moved at this time by the Member who gave notice thereof, due to their absence, it will be treated as withdrawn and cannot be moved without a fresh notice given under this Rule, unless the Chairman is aware of mitigating circumstances for that Member's absence and Council, having been made aware of such circumstances, decides, with the consent of the simple majority of Members present (which will have been demonstrated, without any debate, by a show of hands) to defer the Motion to the next ordinary meeting of the Council. If the Member who gave notice of the Motion considers it a matter of urgency they can nominate another Member to move the Motion at the Council Meeting by notifying the Democratic Services Manager of that arrangement by no later than Noon on the day of the meeting. That nominated Member will, from that point, take "ownership" of the Motion as far as these Council Procedure Rules are concerned.

At this point in the proceedings, and in the circumstances in which one or more of the Council's Statutory Officers has stated in their Advisory Note that the Motion should not be dealt with at the meeting, the Chairman can declare that, on the advice of the statutory officers, the Motion is either deferred until the next ordinary meeting of the Council or is referred to the relevant body or bodies, as appropriate. The Motion will thereupon stand so deferred/referred without discussion or debate. Council Procedure Rules 12.8, 12.9 and 12.10 will apply, as appropriate in the circumstances.

Otherwise, if the motion is seconded then it will be proceed to be debated in accordance with the maximum 60 minute time limit normally allocated for a Motion submitted under this Rule. This 60 minute period will commence at the point the Chairman calls on the Mover of the Motion to speak to the motion and explain its purpose and this 60 minute period will also cover any amendments to the Motion that are accepted and debated upon by Members.

In debating the Motion the provisions, as applicable, of Council Procedure Rules 16, 19, 23, 24, 25, 28 and 29 will apply, together with the principles of decision making as set out in Article 13.02 of the Council's Constitution.

12.7 Powers available in respect of the Council making a decision on the Motion at an Ordinary Meeting of the Council

1. If the Motion relates to a matter under the purview of the Executive, as detailed within The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, then the Council legally can only make a recommendation to the Executive, or give its advice/opinion to the Executive, in relation to the Motion.

2. If the Motion relates to a non-executive function that is delegated to a Committee then the Council can either make a definite conclusive and binding decision, or make a recommendation to the Committee or give its advice/opinion to the Committee, in relation to the Motion.

3. The Council, through its debate, can also through the amendment provisions set out in Rule 16.5 (Amendments to Motions) delay making a decision on the Motion until a

future ordinary meeting of the Council if it so wishes, as long as it makes clear its reason for doing so. Reasons for such a delay could potentially but not exclusively include:-

(a) a requirement for further information on the implications of the potential decision to be researched and submitted;
(b) the lateness of the hour;
(c) the need to hold a site visit;
(d) a requirement for the attendance of an Officer and/or representative of an external organisation et cetera;
(e) to enable a consultation exercise to be carried out either internally within the Council or externally;
(f) to enable Political Group Leaders to informally discuss the matter;
(g) to enable a public meeting or inquiry to be held; and
(h) to enable the calling of a referendum (subject to the necessary financial provision being approved).

12.8 Referred Motions – Consideration of the Motion by the Cabinet or a Committee

If the Motion is, in accordance with the provisions of Rule 12.7(3) above, formally referred to the Cabinet or a Committee for consultation, the Head of Democratic Services & Elections will ensure that the Motion is included on the agenda of the earliest practical meeting of the Cabinet/Committee. That body shall be required solely to consider such motion and to advise the Council (by no later than the second Ordinary Meeting of the Council held following the date of Council's referral) of their opinion as to whether such motion should be supported or not supported. That body will not be required to propose an alternative motion or an amended motion.

Prior to making its response the Cabinet/Committee may, following consultation with the relevant Officers, require further information to be presented to it for consideration on the implications of the proposed motion. Such a report must be considered by that body in a timely manner.

Once the Cabinet/Committee has considered the Motion it will be sent back to Council with that body's response.

12.9 Deferred Motions – Rights of Member submitting/Mover of the Motion

If the Motion has, in accordance with the provisions of Rule 12.6 above, been formally deferred until the next ordinary meeting of the Council (i.e. due to the "mitigating circumstances" provision or by the Chairman acting on the advice of the statutory officers) the Member who submitted the Motion will be made aware of this, as soon as possible, by the Democratic Services Manager and also of the date of the next ordinary Council meeting.

The right of the Member submitting/mover of the Motion to speak to the motion and explain its purpose will be automatically reserved until that meeting.

12.10 Referred Motions – Rights of Mover of the Motion

If the Motion has, in accordance with the provisions of Rule 12.6 above, been formally referred to a relevant body or bodies (i.e. due to the Chairman acting on the advice of the statutory officers) the Mover of the Motion (or another Member nominated by them) will be, as a matter of courtesy, made aware by the Democratic Services Manager of the date(s) of the meeting(s) of such body or bodies at which their Motion will be considered. The Mover of the Motion (or other Member nominated by them) will have the right to attend such meeting(s) to speak to the motion and explain its purpose. That Member will also be permitted to answer questions and/or provide clarification, if requested to do so by the Chairman of the meeting. The Member will also have a right of reply (of no more than three minutes duration) to respond to the debate at the meeting on their motion.

If the Motion has, in accordance with the provisions of Rule 12.7(3) above (i.e. following a debate at Council) been formally referred to the Cabinet or a Committee for consultation, the Mover of the Motion (or another Member nominated by them) will be, as a matter of courtesy, made aware by the Democratic Services Manager of the date of the Cabinet/Committee meeting at which their Motion will be considered so that they can attend if they so wish.

As the purpose of the motion will have already been explained at the full Council meeting the Mover of the Motion (or another Member nominated by them) will not have any automatic right to speak at that meeting though they will be permitted to answer questions and/or provide clarification, if requested to do so by the Chairman of the meeting. The Member will also have a right of reply (of no more than three minutes duration) to respond to the debate at the meeting on their motion.

12.11 Notification of the decision of the Council to the relevant Body

Once the Council has made its final decision on the Motion and if it is relevant and necessary to do so, the Assistant Director Corporate Policy and Support will, at the earliest practical meeting of the Cabinet/Committee, as appropriate, formally report that decision of the Council in order that that body can note the Council's decision and consider what action, if any, that it now needs to take.

12.12 Consideration of a Motion at an Extraordinary Meeting of the Council

At an Extraordinary Meeting of the Council any Motion listed on the Agenda will be dealt with at that meeting in accordance with the provisions, as applicable, of this Rule 12 and Rules 16, 19, 23, 24, 25, 28 and 29 together with the principles of decision making as set out in Article 13.02 of the Council's Constitution.

13. 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 refer something to, or back to, Cabinet or relevant Committee;

(e) To receive reports or adoption of recommendations of Committees or Officers and any resolutions following from them;

(f) To withdraw a motion;

(g) To amend a motion;

(h) To proceed to the next business;

(i) That the question be now put;

(j) To adjourn a debate;

(k) To adjourn a meeting;

(l) To exclude the public and press in accordance with the Access to Information Procedure Rules;

(m) That a Member named under Rule 23.3 Disorderly Conduct not to be heard further or to exclude them from the meeting under Rule 23.4;

(n) To give the consent of the Council where its consent is required by this Constitution;

(o) To extend the time limit for a speech; and

(p) In the case of urgency, notice of motion may be given, in writing, signed by the Member, or Members, giving the notice and the reason for its urgency and delivered by noon on the morning of the day of the meeting at the office of the Chief Executive who will immediately advise the Chairman of its receipt. If in the opinion of the Chairman, the matter is not urgent, the Chairman may direct that it be disallowed.

14. MOTIONS NOT PERMITTED

No motion shall be submitted on a matter that relates to an item which;

(a) is not about a matter for which the local authority has a responsibility or which affects the District or is about a matter of regional, national or international importance that could not be reasonably considered to affect the residents of the District;

(b) is to be considered on the same Council agenda;

(c) is substantially the same as a motion already received to be put to the ordinary meeting of the Council in question;

(d) is substantially the same as a motion which has been put at a meeting of the Council in the past six months;

(e) has been the subject of a Key Decision in the previous six months;

(f) is included within the work programme of an Overview and Scrutiny Committee;

(g) is, at the time of submission, subject to call-in or on-going legal proceedings or requires the disclosure of confidential or exempt information (as defined in the Access to Information Procedure Rules);

(h) the Monitoring Officer will reject a motion if in their judgment it is likely to lead to a breach of the Members' Code of Conduct.

15. QUESTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL

If any question arises at a meeting of the Council or of a Committee or Sub-Committee as to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council, such question shall not be the subject of discussion until the Council, Committee or Sub-Committee has decided whether or not the power of exclusion of the public shall be exercised.

16. RULES OF DEBATE

16.1 No Speeches until Motion Seconded

No speeches may be made after a motion has been proposed and explained until it has been seconded. However, a motion that the recommendations from Cabinet or references from the relevant Committee shall be adopted need not be seconded.

A Member when seconding a motion or amendment may, if he then declares his intention to do so, reserve his speech until a later period of debate, subject to Rule 16.10 – Closure Motions.

16.2 Right to Require Motion or Amendment in Writing

Unless notice of the motion or amendment has already been given, the Chairman may require it to be written down and handed to him before it is discussed.

16.3 Content and Length of Speeches

Speeches must be directed to the motion under discussion or to a personal explanation or point of procedure. No speech (including those to move motions) shall exceed three minutes except with the consent of the Council. This does not apply to the statement by the Leader on the State of the District and the Leader's presentation of the budget.

16.4 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 or second a further amendment if the motion has been amended since he last spoke;

(c) if his first speech was on an amendment moved by another Member, to speak on the main issue (provided the amendment has not been carried);

(d) in exercise of a right of reply;

(e) on a point of procedure; and/or

(f) by way of personal explanation.

16.5 Amendments to Motions

(a) An amendment to a motion must be relevant to the motion and either be:

(i) to refer the matter to the Cabinet or relevant Committee for consultation, further information on the implications of the potential decision to be researched and submitted, 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), (iii) or (iv) is not to negate the motion or introduce a new subject matter into the motion before the Council. In addition, any amendment proposed to be made that may have budgetary implications must have been submitted to the Council's Section 151 Officer at least two working days before the Full Council meeting to enable them to consider the implications for the Council's Finances.

Furthermore, no amendment will be accepted that could bind or fetter the Executive or a Committee in relation to matters that are within the responsibility of the Executive or a Committee of the Council.

(b) Any amendment proposed to be made to the Cabinet's budget proposals must have been submitted to the Council's Section 151 Officer at least two working days before the Budget Full Council meeting(s) to enable them to consider the implications for the budget.

(c) Any Member wishing to move an amendment or alternative recommendation to those made by the Independent Remuneration Panel in respect of the Members' Scheme of Allowances must have submitted their proposals to the Council's Section 151 Officer and the Monitoring Officer at least two working days before the relevant Full Council meeting to enable them to consider the legal and financial implications. Any such

amendment or alternative recommendation must be accompanied by the reasons for departing from the IRP's recommendations. Once deemed to be valid by the Monitoring Officer it will be immediately circulated by email to all Members of the Council. Copies of such amendment or alternative recommendation(s) will also be placed on Members' tables prior to the commencement of the Council meeting.

(d) Only one amendment may be moved and discussed at any one time. Subject to Rule 16.10 no further amendment may be moved until the amendment under discussion has been disposed of. However the Chairman may permit a Member to give formal notice of the terms of any further amendment which he proposes to move at a later stage in the proceedings.

(e) A member may withdraw their proposed amendment with the consent of the seconder.

(f) If an amendment is not carried, other amendments to the original motion may be moved.

(g) 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.

(h) After an amendment has been carried, the Chairman will read out the substantive motion before accepting any further amendments, or if there are none, put it to the vote.

16.6 Alteration of Motion

(a) A Member may alter a motion of which he has given notice with the consent of the seconder.

(b) A Member may alter a motion that he has moved without notice with the consent of the seconder.

(c) Only alterations that could be made as an amendment may be made. This includes any amendment made at the meeting by another Member.

16.7 Withdrawal of Motion

A Member may withdraw a motion that he has moved with the consent of the seconder unless it is the subject of an amendment. No Member may speak on the motion after the mover has withdrawn it.

16.8 Right of Reply

(a) The seconder of a motion (including the seconder of a motion on which an amendment has been moved), the mover of a motion (including the mover of a motion on which an amendment has been moved) and the seconder and the mover of an amendment have a right of reply at the end of the debate on the motion or amendment. Following this, the appropriate Portfolio Holder or the Chairman of the relevant Committee shall have the right to speak on the motion or amendment immediately before it is put to the vote. Where the mover of the motion or amendment was the Leader of the Council, he shall have the final right to speak.

(b) A Member exercising a right of reply shall confine his remarks to answering the arguments employed or observations made during the debate and shall not introduce any new matter.

(c) The right of reply of the seconder of a motion or amendment (as referenced in (a) above) will only apply if the seconder has not already spoken during the debate on the motion or amendment in question.

16.9 Motions Which May be Moved During Debate

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

(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) to extend the time for speeches;

(h) to give any consent required by these procedure rules;

(i) to suspend one or more of the procedure rules;

(j) to exclude the public and press in accordance with the Access to Information Procedure Rules; and

(k) that a Member named under Rule 23.3 below (Disorderly Conduct), not to be heard further or to exclude them from the meeting under Rule 23.4.

16.10 Closure Motion

(a) A Member may move, without comment, the following motions at the conclusion of a speech of another Member;

(i) That the Council proceed to the next business;
(ii) That the question now be put;
(iii) That the debate now be adjourned; or
(iv) That the Council does now adjourn; or
(v) That the matter be referred to the Cabinet or a Committee(s) in accordance with the responsibility of functions and the defined terms of reference.

(b) On the seconding of which the Chairman shall, unless in their opinion the matter before the meeting has been insufficiently discussed, proceed as follows:

(i) On a motion to proceed to the next business or to refer the matter to the Cabinet or a Committee(s): they shall first give the seconder and the mover of the original motion their right of reply, under Rule 16.8 above, and then put to the vote the motion to proceed to the next business or to refer the matter;

(ii) On a motion that the question now be put: they shall put to the vote the motion that the question now be put, and if it is passed then the Chairman will give the seconder and the mover of the original motion their right of reply under Rule 16.8 above before putting their motion to the vote;

(iii) On a motion to adjourn the debate or the meeting: they shall put the adjournment motion to the vote without giving the seconder and the mover of the original motion their right of reply on that occasion.

16.11 Point of Procedure

A Member may raise a point of procedure at any time. The Chairman will hear him immediately. A point of procedure may only relate to an alleged breach of these Council Procedure Rules or the law. The Member must indicate the rule or law and the way in which he considers it has been broken. The ruling of the Chairman on the matter will be final.

16.12 Personal Explanation

A Member has the right to make a personal explanation when directly related to some material part of an earlier speech by the Member if it appears to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

17. STATE OF TENDRING STATEMENT

At the last ordinary meeting before the Annual Council meeting each year, the Leader will make a Statement on the State of the Tendring District. The Chairman may permit debate following the statement.

In addition, the text of the Leader of the Council's Statement on the State of the Tendring District must be emailed to the Democratic Services Manager by no later than 5.00 p.m. on the day of the relevant Full Council meeting in order that copies of same can be printed and placed on Members' seats prior to the commencement of the Council meeting. The Democratic Services Manager will also email the statement to all Members of the Council as soon as possible after they receive it from the Leader of the Council.

18. PREVIOUS DECISIONS AND MOTIONS

18.1 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 12 Members.

18.2 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 12 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

This procedure rule does not apply to motions moved to adopt a recommendation to the Council from the Cabinet or a Committee.

19. VOTING

19.1 Voting

A Member cannot vote on a matter if they have not been present for the whole of the consideration of that matter.

19.2 Majority

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members present in the room, eligible to vote and voting at the time the question was put to the vote.

19.3 Chairman's Casting Vote

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

a casting vote. In the case of an equality of votes for the election of the Chairman of the Council, the retiring Chairman or the person presiding at the meeting must exercise a casting vote.

19.4 Show of Hands

Unless a recorded vote is demanded under Rule 19.5, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

19.5 Recorded Vote

If 9 Members present at the meeting 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.

A recorded vote is mandatory on any decision relating to the budget or Council Tax. This includes not only the substantive budget motions agreeing the budget and setting Council taxes, but also on any amendments proposed at the meeting.

19.6 Right to Require Individual Vote to be Recorded

Where any Member requests it immediately after the vote is taken, his vote will be so recorded in the minutes to show whether he voted for, or against, the motion, or abstained from voting.

19.7 Voting on Appointments

Where there is more than one person nominated and seconded for any position to be filled by the Council then unless the Council decides otherwise at the time, the person receiving most votes shall be appointed. Where there is only one person nominated and seconded, Members will cast their votes either for or against that person. The person nominated will be appointed if the votes for are more than the votes against.

20. MINUTES

20.1 Signing the Minutes

The Chairman will sign the minutes of the proceedings at the next suitable ordinary meeting. The Chairman will move that the minutes of any previous meeting be signed as a correct record. The only issue in relation to the minutes that can be discussed is their accuracy.

20.2 Form of Minutes

Minutes of any Council, Committee or Sub-Committee meeting shall comprise a brief summary of the proceedings of, and business transacted at, the meeting. Minutes will not record details of the debate or the views or comments of individual Members. The exceptions to this are committees and sub-committees when considering applications, hearings and appeals or receiving evidence. The Minutes of such meetings will give summarised details of the issues covered in the debate.

No Minutes of any meeting will be produced as a verbatim recording of those proceedings.

Minutes will contain all motions and amendments in the exact form and order the Chairman accepted them as being proper motions/amendments and put them to the vote.

Minutes will also record those instances when a Member has submitted their apologies for absence. If so requested by the Member concerned the Minutes will also record the reason for their absence.

21. RECORD OF ATTENDANCE

All Members present during the whole, or part, of any meeting must sign their names on the attendance sheets before the end of that meeting to assist with the record of attendance.

22. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Rule 24 (Disturbance by Public).

23. MEMBERS' CONDUCT

23.1 Standing to Speak

When a Member speaks at full Council he must stand (if possible) and address the meeting through the Chairman. If more than one Member stand, the Chairman will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of procedure or a point of personal explanation.

23.2 Chairman Standing

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

23.3 Member Not to be Heard Further

If a Member persistently disregards the ruling of the Chairman by behaving improperly, or offensively, or deliberately obstructs business, the Chairman or any other Member may move that the Member not be heard further. If seconded, the motion will be voted on without discussion.

23.4 Member to Leave the Meeting

If the Member continues to behave improperly after a motion in Rule 23.3 is carried, the Chairman may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

23.5 General Disturbance

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

24. DISTURBANCE BY PUBLIC

24.1 Removal of a Member of the Public

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If he continues to interrupt, the Chairman will order his removal from the meeting room.

24.2 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.

25. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

25.1 Suspension

All of these Council Procedure Rules except Rules 19.6 and 20.1 may be suspended by motion on notice, or without notice, if at least 36 Members of the Council are present and 25 Members vote in favour of suspension. Suspension can only be for the duration of the meeting.

25.2 Amendment

Any motion by a Member to add to, vary or revoke these Council Procedure Rules will, when proposed and seconded, will stand adjourned without discussion to the next ordinary meeting of the Council.

26. RESIGNATION OF CHAIRMANSHIP ETC

The Chairman or Vice-Chairman of the Council may at any time, by notice in writing delivered to the Chief Executive, resign their position and such resignation shall take immediate effect on delivery of the notice.

27. CASUAL VACANCIES ETC

On a casual vacancy occurring in the office of Chairman or Vice-Chairman of the Council an election to fill the vacancy shall be held not later than the next ordinary meeting of the Council after the date on which the vacancy occurs, or if that meeting is held within fourteen days after that date, then not later than the next ordinary meeting of the Council, and shall be conducted in the same manner as an ordinary election.

28. STATUTORY OFFICERS' ADVICE

The Chief Executive, Monitoring Officer and Section 151 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 the Chairman and, if requested, to all Councillors present.

29. INTERPRETATION OF PROCEDURE RULES

At any meeting the ruling of the Chairman as to the construction or application of any of the Council Procedure Rules, or as to any proceedings of the Council, shall not be challenged.

Any advice provided by the Statutory Officers in assisting the Chair for the application of the Rules can be shared with all Councillors.

30. PETITIONS

Petitions will be dealt with in accordance with the scheme approved by Council, contained within Part 5 of the Constitution.

The rules of debate will be in accordance with the Council Procedure Rules.

The length of speeches by presenters of petitions shall not exceed three minutes.

31. MINOR AMENDMENTS OF GUIDANCE

Any minor amendment of these rules as a consequence of any written advice or guidance to Officers and Members is delegated to the Monitoring Officer.

32. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

All of the Council Procedure Rules apply to meetings of the Council.

None of these rules apply to meetings of the Cabinet.

Rules 6-9, 11.3-11.5, 11.7 – 11.9, 15, 16 (excluding 16.4), 19 (excluding 19.5 and 19.7), 20 – 24 (excluding 23.1), 26, 28, 29 and 31 including those in Part 2 below apply with any necessary modification to meetings of Committees and Sub-Committees. Rule 40 applies only to the Planning Policy & Local Plan Committee and the Planning Committee.

COUNCIL PROCEDURE RULES

SECTION 2 – COMMITTEE MEETINGS

33. APPOINTMENT OF MEMBERS OF COMMITTEES AND SUB-COMMITTEES/VACANCIES IN CHAIRMANSHIP

33.1 General

Subject to the rules of political proportionality, as provided in the Local Government and Housing Act 1985 (Section 15) and the Local Government (Committees and Political Groups) Regulations 1990, and Rule 33.2 below, Full Council (usually at its Annual Meeting) will appoint Committees and Sub-Committees in accordance with the Local Government Act 1972 (Section 102).

33.2 Eligibility

Subject to the provisions of Rule 33.3 below the eligibility requirements with regard to membership of Committees and Sub-Committees are as follows:-

Overview and Scrutiny Committees

All Councillors except Cabinet members may be members of the Overview and Scrutiny Committees.

Audit Committee, Human Resources and Council Tax Committee, Licensing and Registration Committee, Planning Policy & Local Plan Committee, Planning Committee and Miscellaneous Licensing Sub-Committee

All Councillors may be members of these Committees.

The members of the Miscellaneous Licensing Sub-Committee must also be members of the parent Licensing and Registration Committee.

CIPFA Guidance recommends that the membership of the Audit Committee should not cross-over with either the Executive or Scrutiny functions. However, Officers' advice is that if Members feel that cross membership is necessary then this should be limited to one member from each of the Executive or Scrutiny functions. The Chairman of the Audit Committee should not be a member of the Cabinet.

Standards Committee

All Councillors may be members of this Committee except that no more than one member of the Committee shall be a member of the Cabinet (and that member cannot be the Leader of the Council). In addition, no Leaders of Political Groups can be members of that Committee.

Premises/Personal Licences Sub-Committee

The membership of this Sub-Committee is appointed on an ad hoc basis from the membership of the Licensing and Registration Committee.

33.3 Training Members of the Audit, Human Resources and Council Tax, Licensing and Registration, Overview and Scrutiny, Planning and Standards Committees and the Licensing Sub-Committees

In addition to specific training required as and when necessary, training shall be provided to all Members appointed to the Audit, Human Resources and Council Tax, Licensing and Registration, Overview and Scrutiny, Planning and Standards Committees and the Licensing Sub-Committees on an annual basis at an appropriate date and time after each annual meeting of the Council and such training shall be mandatory.

A Member cannot sit as a member of the Planning Committee unless they have received specific training with regard to the determination of planning applications.

A Member cannot sit as a member of the Licensing and Registration Committee or its Sub-Committees unless they have received the specific training with regard to the broad range of licensing matters, (or the specific training to the subject matter of the Sub-Committee) as set out within (but not necessarily limited to) the Licensing Act 2003, the Gambling Act 2005 and the Local Government (Miscellaneous Provisions) Act 1982.

A Member cannot sit as a member of the Audit Committee unless they have received specific training with regard to the determination of the Council's Statement of Accounts and comprehension of Auditor reports.

A Member cannot sit as a member of the Standards Committee unless they have received specific training with regard to the Hearings Procedure and participation in Hearings.

A Member of the Human Resources and Council Tax Committee cannot sit as a member of a Personnel Appeals Sub-Committee of that Committee unless they have received specific training with regard to determining Employment appeals (for specific senior officer posts)

A Member cannot sit as a member of an Overview and Scrutiny Committee unless they have received specific training with regard to work programming and questioning skills.

No Member can continue to sit as a member of the above committees if they have gone more than two years without attending any of the relevant training events.

The Monitoring Officer is authorised to approve alternative arrangements for training to enable Members to attend and take part in the business of the agenda for a particular meeting. Members training records are held by the Monitoring Officer.

33.4 Resignation of Chairmanship Etc.

Any Chairman, Vice-Chairman or Member of a Committee, Sub-Committee or Working Party may at any time, by notice in writing or personal email delivered to the Chief Executive, resign his position and such resignation shall take immediate effect on delivery of the notice.

33.5 Casual Vacancies

In the case of a casual vacancy in the office of a Chairmanship or Vice-Chairmanship of a Committee, Sub-Committee or Working Party an item shall be placed on the agenda of the next meeting of the relevant body which shall, before proceeding to any other business, elect from its Members a Chairman or Vice-Chairman as the case may be for the remainder of the year.

34. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES, SUB-COMMITTEES AND WORKING PARTIES

34.1 General

Substitute members may attend, speak and vote at meetings of Committees and Sub-Committees of the Council, subject to Rules 33.3 and 33.4. In the case of the Overview and Scrutiny Committees, such Substitute Members may not be Members of the Cabinet. Substitute Members may not be appointed to any Working Parties unless that working party has been established in full accordance with the Widdicombe Rules.

34.2 Eligibility and Effect

A Substitute shall belong to the same political group (as defined in the Local Government and Housing Act 1989) as the Member for whom he is a Substitute. Substitution by, or of, Members not in a political group is not permitted.

Only the Member being substituted or their Group Leader (or Deputy) can appoint substitute members. Notification of a substitute from the Member being substituted or their Group Leader (or Deputy) must be given to Committee Services prior to the commencement of the meeting at which the substitution is to apply. Where more than one notification is received, the Group Leader (or Deputy's) request will take precedence.

In those circumstances where the Member who wishes to be substituted has recently left one political group and joined another or if they have moved to a non-aligned position and in the absence of a review of the allocation of seats to political groups, the seat remains within the control of the Member's previous Group then it shall be for the Leader of that Group to appoint a substitute.

The substitution will be in effect for the whole of the meeting (including any part thereof that is adjourned to, and subsequently considered at, a later date). The Substituted Member must not take their seat.

34.3 Training Substitute Members of the Audit, Human Resources and Council Tax, Licensing & Registration, Overview & Scrutiny, Planning and Standards Committees

In addition to specific training required as and when necessary, training shall be provided to all named Substitute Members appointed to the Audit, Human Resources & Council Tax, Licensing and Registration, Overview & Scrutiny, Planning and Standards Committees and the Licensing Sub-Committees on an annual basis at an appropriate date and time after each annual meeting of the Council.

The Monitoring Officer is authorised to approve alternative arrangements for training to enable Members to attend and take part in the business of the agenda for a particular meeting.

34.4 Substitute Members of the Audit, Human Resources & Council Tax, Licensing & Registration, Overview & Scrutiny, Planning and Standards Committees and the Licensing Sub-Committees

Group Leaders shall, provide named Substitute Members (in accordance with proportionality rules) and all substitutions will only be permitted from this list. Any member of a political group shall be eligible to act as a named Substitute Member providing that they have received training in relation to all relevant Audit, Human Resources & Council Tax, Licensing & Registration, Standards-related, Overview & Scrutiny or Planning matters under a continuing programme arranged by the Council. When naming a designated substitute, Group Leaders shall, as far as reasonably practicable, satisfy themselves that the named Member is as conversant with all relevant Audit, Human Resources & Council Tax, Licensing and Registration, Standards-related, Overview & Scrutiny and Planning matters as the appointed members of those Committees.

34.5 Substitute Members of the Premises/Personal Licences Sub-Committee

Substitutes for Members of the Premises/Personal Licences Sub-Committee shall be made from the appointed membership of the Licensing & Registration Committee. Such substitute need not be a Member of the same political group and the provisions of Rule 34.2 shall not apply.

The Democratic Services Manager will, at the request of the Group Leader of a member of the Premises/Personal Licences Sub-Committee or at the request of the Member concerned, appoint a Substitute from amongst the appointed Membership of the Licensing & Registration Committee who should have received training in relation to licensing under a continuing programme arranged by the Council. Such request need not be in writing.

In addition, in arranging the Sub-Committee meeting where additional members of the Licensing & Registration Committee had indicated their availability those Members will be requested by Democratic Services to keep the meeting date free in their diaries and they will be sent a copy of the agenda and reports and accompanying documents etc. Therefore, in the event of the Sub-Committee being inquorate the meeting will be adjourned whilst Officers attempt to contact one (or more) of the aforementioned members of the Licensing & Registration Committee and to request them to attend the Sub-Committee's meeting.

In the event of the above not being possible in the prevailing circumstances then the Sub-Committee meeting will be adjourned until another date. The Democratic Officer present at the meeting will have suggested alternative dates available to try and facilitate a quick re-arrangement of the meeting.

35. MEETINGS OF COMMITTEES

35.1 Ordinary Meetings

The Committees of the Council will normally hold meetings (known as Ordinary Meetings for the purposes of these Procedure Rules) on dates and at times as the Council decides at its Annual Meeting.

The business of ordinary meetings of a Committee etcetera shall cease after a duration of three hours on the day on which the meeting commenced, or such earlier, or later, time as the Chairman shall consider appropriate. In the event that the Chairman wishes to extend the meeting beyond three hours they will be expected to give an indication of the length of that extension and secure the consent of the Committee etc. in doing so.

For the avoidance of any doubt the above requirement does not extend to a meeting of any committee or sub-committee which is conducting a Hearing into licensing or standards/conduct or other regulatory matters. On such occasions the Chairman will be expected to call regular adjournments of the Hearing in order for participants to have comfort and/or refreshment breaks.

35.2 Special Meetings

1. The Chairman of a Committee can call a Special Meeting of a Committee at any time.
2. A Special Meeting shall also be called on the requisition of a not less than a quarter of the whole number of Members of the Committee, delivered in writing, or by email to the Chief Executive but in no case shall less than three Members requisition a Special Meeting.

No business except that set out in the Summons and Agenda shall be carried out at a Special Meeting of a Committee.

35.3 Recording and Streaming of Committee Meetings

In accordance with the approved Protocol for such matters, the Council will make an audio and/or visual live stream and recordings of its Committees, which will be made available on the Council's website for a period of at least one year from the date of the relevant meeting.

36. ATTENDANCE AT MEETINGS

Except as otherwise provided in this Constitution and in particular having regard to the provisions of the Access to Information Procedure Rules:-

36.1 Every Member of the Council shall be entitled to attend all meetings of Committees and Sub-Committees. This does not include attendance at Portfolio Holder Working Parties. A Member of the Council shall not take part in any discussion at a meeting of a Committee or Sub-Committee of which he is not a Member, unless specifically invited to do so by the Chairman of that meeting, or unless he is attending the meeting of the Committee under the provisions of Rule 12.6, and he shall in no case be entitled to vote. The Member shall obtain the permission of the appropriate Chairman prior to the relevant meeting if he wishes to speak at that meeting. Exceptions to this include that the Portfolio Holder with the responsibility for Planning and the Chairman of the Planning Committee each have a standing invitation to attend meetings of the Planning Policy & Local Plan Committee. The Portfolio Holder with the responsibility for Planning will be permitted to express the views of the Executive on strategic planning issues and the Chairman of the Planning Committee will be permitted to express the Planning Committee's views and comments on the Report items that are being considered by the Planning Policy & Local Plan Committee.

Additionally, where a Member has submitted a Motion to Council under Rule 12.2 and that Motion has been referred to a Committee under Rule 12.6 or Rule 12.7 that Member will have the right to attend the relevant meeting of that Committee and present their Motion, as appropriately permitted under Rule 12.10.

Where the public speaking scheme (Rule 40) applies to a particular application or matter before the Planning Committee, no Member shall be entitled to address or speak to the Planning Committee under this Rule. This does not detract from any rights the Member has under the public speaking scheme.

At such times as the Standards Committee (in respect of Hearings on standards/conduct related matters) or the Premises/Personal Licences Sub-Committee (in respect of Hearings on licensing related matters) exclude the press and public and retire to deliberate and reach their decision "in camera", only the duly appointed members of the decision making body will be allowed to remain in the meeting. All other Councillors will be treated as members of the public and will be excluded from the meeting at that time.

36.2 The Chief Executive, Chief Financial Officer and Monitoring Officer have the right to attend, speak on an item of business, provide representations and present a report to discharge their statutory and constitutional duties whenever necessary. In such instances, the Committee or Sub-Committee in question will give due regard of the relevant advice provided. The decision and minutes of the meeting will record the advice, how it was taken into account and reasons for any departure.

37. SUB-COMMITTEES AND WORKING PARTIES

The Council will decide the establishment, terms of reference, delegated powers, number of Members and the allocation of seats to political groups for all new Sub-Committees.

The Council, (normally at its Annual Meeting) will also appoint individual Members to standing Sub-Committees and will appoint the Chairman and Vice-Chairman of those Sub-Committees.

Every non-overview and scrutiny Committee of the Council may appoint working parties for specified purposes in accordance with Part 3 of this Constitution. The Committee may amend the constitution of the working parties or dissolve them at any time.

The Chairman and Vice-Chairman of any working parties appointed by a Committee will be determined at the first meeting of the working party. Meetings of working parties will normally be convened, either at an earlier meeting of the working party or by the Democratic Services Manager in consultation with their Chairman.

38. QUESTIONS ON NOTICE AT COMMITTEES AND SUB-COMMITTEES

Subject to Rules 11.4 and 11.5 and upon providing two working days' notice, a Member of a Committee may, at a meeting thereof, ask the Chairman of it a question on any matter in relation to which the Council has powers or duties of which affect the Tendring District and which falls within the terms of reference of that Committee.

39. SITE VISITS, SPECIFIC BRIEFING OR TRAINING

39.1 Where a site visit, specific briefing or training is called by Officers in relation to a planning or licensing application received by the Council, any Member or Substitute Member of that Committee who does not attend the site visit, specific training or briefing, shall not be eligible to take part at the meeting at which the application to which the site visit, specific training or briefing related is to be considered.

39.2 Notification of site visits arranged by any Committee or Sub-Committee shall be given to the Members for the ward in which the site is situated. Such Members shall have the right to attend the site visit but shall not take part in any discussion unless specifically invited to do so by the Chairman of the body that has arranged the site visit. The body arranging the site visit shall not exercise any delegated powers nor take any decisions in the course of the visit.

40. SCHEMES TO PERMIT MEMBERS OF THE PUBLIC TO SPEAK AT MEETINGS OF THE PLANNING POLICY & LOCAL PLAN AND PLANNING COMMITTEES

The Planning Policy & Local Plan Committee and the Planning Committee will each have a scheme providing a limited right for speaking by members of the public in relation to applications or other matters of business. The schemes shall be in such a form as the Full Council determines having considered a recommendation from the relevant Committee.

Essex Procurement Partnership

The Procurement Procedure Rules

April 2026

Issue Control		
Version	**Date**	**Description**
1	August 2025	First draft in line with council and EPP versions
2	December 2025	LH TDC review
3	February 2026	Response to comments with additional drafting
4	March 2026	Clean version with flow chart
5	April 2026	Updated waiver/exemption detail following comments from Karen Hayes (TDC)
6	April 2026	LH TDC review for Cabinet Report
7	April 2026	Amendments approved through EPP ready for Reports and Governance

Introduction and Purpose of this Document

Following adoption of the Procurement Strategy, these Procurement Procedure Rules have been created for the members of the Essex Procurement Partnership ('EPP'). This is a collaboration of a number of Councils who have one collective approach to undertaking procurements on their behalf.

The Councils remain the Contracting Authority in all cases and the decision makers with regards to procurement activity and contract management.

The Procurement Procedure Rules apply to each member of the Partnership, following approval and adoption by the Councils, with the exception of Essex County Council whose Procurement Policy closely mirrors these Procurement Procedure Rules.

These Rules apply to the procurement activity and do not contain all the Council's Policies and Procedures, which are set out elsewhere in the Constitution. Anyone referring to this document should ensure that they understand the totality of the corporate governance framework when commencing procurement and committing the Council. Procurement can only take place where budgetary provision is available to fund the goods, works or services required.

The Rules apply to the procurement of ALL goods, works or services. The approved electronic ordering system will be used for all procurement, except where otherwise detailed within these Procurement Procedure Rules.

This document sets out the dos and don'ts when spending the Council's money on third party goods, services and works.

Part 1 of this document details the rules applicable to all Council Officers and Members when conducting procurement activity, Part 2 is specifically for the EPP.

The Procurement Procedure Rules ***(The Rules)*** form part of the Council's Constitution so apply to **all** Council Officers who should familiarise themselves with the content of this document prior to commencing any procurement-based activity.

The EPP has a suite of process documents known as the **"Procedures"** which supports delivery of these Procurement Procedure Rules, the Council's Procurement Strategy and Social Value Policy.

These Rules reflect the National Procurement Policy Statement (NPPS) which sets out the UK Government's strategic priorities for public procurement and explains how contracting authorities must support their delivery. The NPPS is a statutory requirement under section 13 of the Procurement Act 2023, the latest version came into effect on 24 February 2025.

These Rules mirror the NPPS in focus on the following key strategic priorities:

- Delivering Value for Money

- Driving Economic Growth (includes strengthening supply chains by giving SMEs and VCSEs a fair chance)
- Enhancing Social Value (includes working in partnership across organisational boundaries)
- Supporting Net Zero and Environmental Goals
- Improving Supplier Access and Market Diversity
- Commercial Capability and Innovation (includes standards are in place for to procure and manage contracts effectively and to collaborate with other authorities to deliver best value)

Contracting Authorities (the Council) must consider the NPPS in all procurement decisions and document how NPPS objectives influence their choices, and align processes with growth, social value, and capability goals.

One of the main objectives of the Rules is to ensure that the Council's tenders are carried out in accordance with legislation which, for the purpose of this document is defined as including the:

- Public Contract Regulations 2015
- the Procurement Act 2023 supported by the Procurement Regulations 2024
- Public Services (Social Value) Act 2012; and
- the Health Care Services (Provider Selection Regime) Regulations 2023.

In particular, applying the principles of value for money, public benefit, transparency, integrity, fair treatment, consideration of SME, equal treatment and non-discrimination.

These principles apply to both procurements above the UK public procurement thresholds and those below. The legislation and NPPS requirements will be kept under review and these Rules may be amended under the Monitoring Officer's delegated authority as set out in Article 15 of the Council's Constitution, following consultation with the Section 151 Officer and relevant Portfolio Holder(s) responsible for the corporate procurement function and governance responsibilities.

The Rules are designed to provide a framework of best practice for all procurement activities which support the Council in achieving value for money and delivering the Council's corporate objectives. This document will clarify who should conduct the activity and the appropriate methodology to be used.

PART 1 - Who is this document for?

A. The Role of elected Members

The role of elected Members is based on their four-fold responsibility for policy shaping, decision-making, governance and scrutiny. Their responsibilities are to be administered in a manner consistent with the Constitution of the Council. The primary responsibilities in relation to procurement are to:

(i) Set the strategic direction of the Council's Procurement Strategy.

(ii) Align procurement activity with the Council's Budget and Corporate Vision/Plan, priorities and objectives.

(iii) Members are decision makers for the activity being authorised.

(iv) Make decisions on awarding contracts in accordance with these Rules following the procurement process and evaluation conducted by Officers.

(v) Monitor and review the corporate performance of the procurement function via the Cabinet Member/Portfolio Holder for Procurement.

(vi) Individual Portfolio Holder responsibility for Service Areas.

(vii) Scrutinise contract management and co-operate with any scrutiny relating to procurement which relates to a particular portfolio of a Cabinet Member.

(viii) Audit Committee – Overseeing the effective development and monitoring of key Council policies and internal control arrangements which includes the procurement strategy and wider associated governance arrangements. This extends to considering such arrangements and supporting any necessary actions to ensure compliance with its own and other published standards and controls.

B. The Role of Officers

(i) **All** Council Officers should familiarise themselves with the content of this document prior to commencing any procurement-based activity.

(ii) Before undertaking any procurement, Departments should satisfy themselves that:

- The works, goods or services are required and a need can be demonstrated
- There are no reasonable alternatives e.g. sharing or utilising spare capacity/inventories elsewhere within the Council
- They are aware of the current statutory contract value thresholds in accordance with the legislation (as amended) as shown on the Council's Intranet.

- Where relevant, they have considered the requirements of the Public Services (Social Value) Act 2012 and have recorded/evidenced the outcomes against the associated requirements:-

  - ❖ *how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area*
  - ❖ *how, in conducting the process of procurement, it might act with a view to securing that improvement.*

(iii) If you intend to engage an approved third party, such as a consultant, company, or contracting agent to procure goods, services or works on behalf of the Council, you must engage with the Council's in-house procurement support or EPP first and ensure that the third party is aware of and complies with the Rules and requirement to declare any potential Conflicts of Interest.

(iv) Resources and capacity are required to undertake procurement activity in a timely manner therefore, Service Areas need to engage early with procurement teams to ensure the activity is captured on the Council's procurement project pipeline so that the necessary resources and support can be planned appropriately.

(v) The Rules do not apply to:

(a) Contracts of employment.
(b) The acquisition, lease or disposal of buildings or land save where those buildings or land form part of a development agreement.
(c) Non trade mandatory payments to third parties, including insurance claims, pension payments and payments to public bodies.
(d) A declared emergency as determined by the Minister of the Crown.
(e) Awarding of grants – note grant expenditure may be subject to a tender process and subsidy control requirements.

Council Officers should seek advice from the Council's relevant directorate responsible for the corporate procurement function/service if they are unsure whether these Rules apply or not. For Tendring District Council, this is Law & Governance.

(vi) Any failure to comply with these Rules will be treated as a serious matter, which may lead to disciplinary action in the case of an Officer or a complaint to be investigated by the Monitoring Officer in the case of a Councillor.

(vii) Where an Officer becomes aware of a failure to comply with the Rules that cannot be remedied after seeking advice from the relevant Procurement Specialist or if an act of non-compliance gives rise to, or is likely to give rise to illegality, then the matter must be notified to the Council's Monitoring Officer at the earliest opportunity.

(viii) Any questions relating to the application of Rules, or where further procurement guidance and support is needed, should be directed to the EPP in the first instance with support sought from Legal Services where required.

(ix) The Chief Finance Officer is responsible for ensuring the proper administration of the Council's financial affairs and integral to decisions on procurement activity using Council funds, value for money considerations, the exemption process and supporting the audit function.

(x) The Senior Responsible Officer for procurement is required to ensure adherence to these Rules by the Service Areas and procurement team, working with senior colleagues across the Councils. Essex Procurement Partnership support the Councils to ensure these Rules are known and embedded.

(xi) Senior Officers within each Council, with responsibility for Directorates, Departments or Service Areas are responsible for ensuring those officers within their Service Areas know the Rules, are competent in applying them to their service requirements and are complied with.

(xii) A Service Area Officer should be appointed to each procurement activity with ultimate responsibility for compliance with the Council's Rules and Procedures, delivery and risk management.

(xiii) All Officers must comply with the latest legislation which applies to public procurement activity.

(C) The Role of the Contracting Service Areas

(i) In addition to the general responsibilities for all Officers, referred to above, the primary responsibilities for any Officer within a Service Area wishing to externally procure services and/or works, are to:

(a) Follow the Rules contained within this document.
(b) Ensure the budget is available and compliance with the Council's Financial Procedure Rules.
(c) Ensure skills and resources are available within the Service Area to specify the service's requirements, support relevant documentation, evaluations, assessments and contract management etc.
(d) Ensure that the appropriate governance/decision making is in place to proceed to tender and advice has been sought on the type of contract being used.
(e) Write a specification for the services to be commissioned – ensuring that the specification does not favour any one supplier to ensure fair competition and to cover the entire procurement & contractual requirement in order to negate foreseen contract variation.
(f) Complete the necessary decision making to award contracts giving reasons following an evaluation process.
(g) Ensure that contracts are managed in accordance with the guidance relevant to value (see section entitled Contract Management) and that due diligence checks are undertaken in relation to insurance requirements and up to date policies throughout the life of the contract.

(ii) In line with Table 1, it is the Service Areas Responsibility to undertake RFQ's up to £50,000 for the life of the contract. The Officer within the Service Area should ensure that any awarded Request for Quotations are notified to the EPP to be logged onto the Council's Contracts Register and the relevant notices are published for any contract over £30,000 (excluding VAT) for the whole life of that contract.

D. The Role of the Essex Procurement Partnership

(i) Essex Procurement Partnership (EPP) is a collaboration of Local Authorities in Essex which has been formed with the aim to enable effective and professional procurement, maximising the value for every pound spent by local authorities across Essex to the benefit of local residents. EPP is made up of officers from across the member Councils who, as one team, work as part of each council as their procurement resource within that council's own governance arrangements.

(ii) EPP is responsible for supporting the Council's Contracting Service Area with the procurement sourcing activity with a value of £50,000 (excluding VAT) or more over the life of the contract on behalf of the Council (see section entitled Contract Management).

(iii) EPP:

(a) Works alongside Service Areas to develop and implement strategies for major projects and key areas of the Council's third party spend, including business cases and option appraisals.

(b) Provide support, advice and guidance to the Service Area to be able to initiate a tender exercise.

(c) Provide support, advice and guidance to the relevant decision maker to commence re-procurement of, or exit from, a contract.

(d) Undertakes market engagement and analysis of available markets,

(e) Supports Councils to develop suitability of frameworks.

(f) Manage the development of supplier markets in both the private and third sector.

(iv) The responsibilities of EPP include:

(a) Consulting the Service Areas and subject matter experts to develop for Member approval, implement and manage delivery of the Council's Procurement Strategy.

(b) Developing and maintaining the framework within which procurement activity is conducted, including provision of:

- The Procurement Procedure Rules and Procedures.
- Guidance and templates to support procurement processes.
- Electronic tools to enable an efficient and transparent process.
- Supports the Council governance process for the award of contracts and decision making.
- Measures and reporting processes.
- A procurement learning and development plan.

- Create and maintain processes and documentation for self-service activity.
- Ensure guidance and training for the wider organisation is available to support service users and self-service delivery.
- Identification and production of future policies
- National benchmarking – analysis once published, identification of training requirements and further actions to develop the EPP offering (link to policy production above)
- Social value reporting

(c) Implementing sustainable approaches which support delivery of the Council's corporate objectives.

(d) Providing market intelligence to identify opportunities for collaboration and to leverage supply market opportunities.

(e) Providing professional procurement expertise, support and advice to Officers and Members to deliver value for money and compliance with legislation, National Procurement Policy Statement and these Rules.

(f) Leading sourcing processes as applicable detailed in Table 1.

(g) Supporting the Council to maintain its Corporate Contract Register for all sourcing activity over £50k.

(h) Providing professional advice to non-procurement Officers within the Councils.

(i) Leading the development of markets.

Spend Thresholds

When there is no alternative available and there is a requirement to spend money, **the total contract value (exclusive of VAT below threshold value) and extension options, where applicable, is used to determine the process to be followed (see below guidance on total contract value).** Tender activity should commence only where, following assessment, any applicable existing arrangements or frameworks have expired, elapsed or are deemed to be unsuitable for the requirement.

Prior to selecting the sourcing activity, Officers must ensure that they have the required governance and approvals in place, the Table below determines the route not the prior approval process.

All sourcing activity is assigned a classification in accordance with Table 1. This determines the correct process and establishes who leads the procurement process. The spend threshold is the first factor considered but Officers will need to consider the complexity of the requirement. If the requirement involves significant resources to implement, deliver, or manage for example, then spend alone may not be the determining factor and advice should be sought from the EPP.

Where any requirement involves any of the specialised terms and conditions listed below, the value-based assignment of procurement approach in Table 1 **does not apply** and the Procurement Specialist with the Head of Service will allocate a risk tier to the contract. Officers must not undertake any activity on procurement for any of the following, without advice from EPP to ensure the correct considerations are given to how to procure. Specialised terms and conditions include:

- Transfer of Staff (TUPE)
- Information Governance (Data Processing).
- Contracts where a supplier will be receiving payment from users of a service or works rather than, or as well as, the Council.
- Technology-related tenders.

Value Classification	Total value including any extensions	Procurement Method	How should I approach the market?	Should I use Electronic Sourcing Tool?	Who is authorised to carry out this procurement?	Must the contract be formally advertised?	What type of contract is required?	Who must approve the contract award	Who signs the contract on behalf of the Council?	Contract Award Notice needed?
Very low value	**£0 to £10,000 (excluding VAT)**	Pcard (if used); or Raising of Purchase Order through the Councils recognised ordering system; or Mandatory Corporate Contracts	At least one written quote with Value for Money evidenced (an alternative price is preferable)	No	Any authorised officer, within Service Area with budget holder approval	No	As a minimum a written statement (included within PO) of what the contract is for & required to do to ensure it is clear what is being purchased and write down requirements in case of dispute	Budget Holder or someone authorised on their behalf in accordance with Financial Procedure Rules	If there is a written contract it should be signed in accordance with Article 14 [by or on behalf of the budget holder]	No

Value Classification	Total value including any extensions	Procurement Method	How should I approach the market?	Should I use Electronic Sourcing Tool?	Who is authorised to carry out this procurement ?	Must the contract be formally advertised?	What type of contract is required?	Who must approve the contract award	Who signs the contract on behalf of the Council?	Contract Award Notice needed?
Low Value	**£10,001 to £49,999 (excluding VAT)**	Request for Quotation (RFQ)	Minimum of three written quotes (preferably invite five people to ensure that three are received). Prioritise local SMEs where possible	No - RFQ Template is available on EPP Sharepoint site	For 10,001 to £49,999 - Any authorised officer within Service Area with budget holder approval	No	Standard Council T&Cs must be used	Head of Service or delegated manager – In line with the financial delegations or Scheme of Delegations	Written contract it should be signed in accordance with Article 14 following published recorded decision [by or on behalf of the budget holder PO sent out with T&Cs following award.]	Yes (send RFQ form to EPP EPP will enter into the system and publish notice

Value Classification	Total value including any extensions	Procurement Method	How should I approach the market?	Should I use Electronic Sourcing Tool?	Who is authorised to carry out this procurement ?	Must the contract be formally advertised?	What type of contract is required?	Who must approve the contract award	Who signs the contract on behalf of the Council?	Contract Award Notice needed?
Low to Medium Value	**£50,000 to £100,000**	Request for Quotation (RFQ)	Minimum of three written quotes (preferably invite five people to ensure that three are received). Prioritise local SMEs where possible	No - RFQ Template is available on EPP Sharepoint site	For £50,000 to £100,000 the Service Area is required to consult the relevant Portfolio Holder before referring to EPP.	No	Standard Council T&Cs must be used	Head of Service or delegated manager – In line with the financial delegations or Scheme of Delegations	Written contract it should be signed in accordance with Article 14 following published recorded decision [by or on behalf of the budget holder PO sent out with T&Cs following award.	

Value Classification	Total value including any extensions	Procurement Method	How should I approach the market?	Should I use Electronic Sourcing Tool?	Who is authorised to carry out this procurement ?	Must the contract be formally advertised?	What type of contract is required?	Who must approve the contract award	Who signs the contract on behalf of the Council?	Contract Award Notice needed?
Medium Value	**£100,001 (excluding VAT) to relevant Procurement Act 2023 Threshold (inclusive of VAT)**	Simplified Tender Process or Enhanced Request for Quotation or RFQ +	Tender or Quotation Giving regard to SME requirements	Yes	EPP	Enhanced Quotation – No Simplified Tender Process - Yes	Council's Standard Terms and Conditions for Medium Value Contracts	Goods and Services - Budget Holder/ Or Authorised Officer within delegations (general scheme or specific)	In accordance with Article 14 following published recorded decision [in line with the financial scheme of delegation]	Yes, as required by legislation

Value Classification	Total value including any extensions	Procurement Method	How should I approach the market?	Should I use Electronic Sourcing Tool?	Who is authorised to carry out this procurement ?	Must the contract be formally advertised?	What type of contract is required?	Who must approve the contract award	Who signs the contract on behalf of the Council?	Contract Award Notice needed?
High Value	**Over Procurement Act 2023 Threshold (inclusive of VAT)**	Legislation compliant process	Tender Giving regard to SME requirements	Yes	EPP	Yes, as required by legislation	High Risk T&Cs	Formal governance will determine approver	In accordance with Article 14 following published recorded decision [Sealed as deed via the Council legal team]	Yes, as required by legislation

Contract Management

Notices

Contract Management is undertaken within each Council by Officers within the service area. It is the service areas responsibility to undertake contract management and assess performance of suppliers against Key Performance Indicators where they are contained within the contract

It is the responsibility of the officers within the Service Area to advise EPP where;

- any contract changes have been made
- the contract has terminated, including where the contract has ended at the conclusion of its term
- a dynamic market is opened to enable bidders to apply
- The contract is over £5m, with the responsibility to share performance annually on at least three Key Performance Indicators.

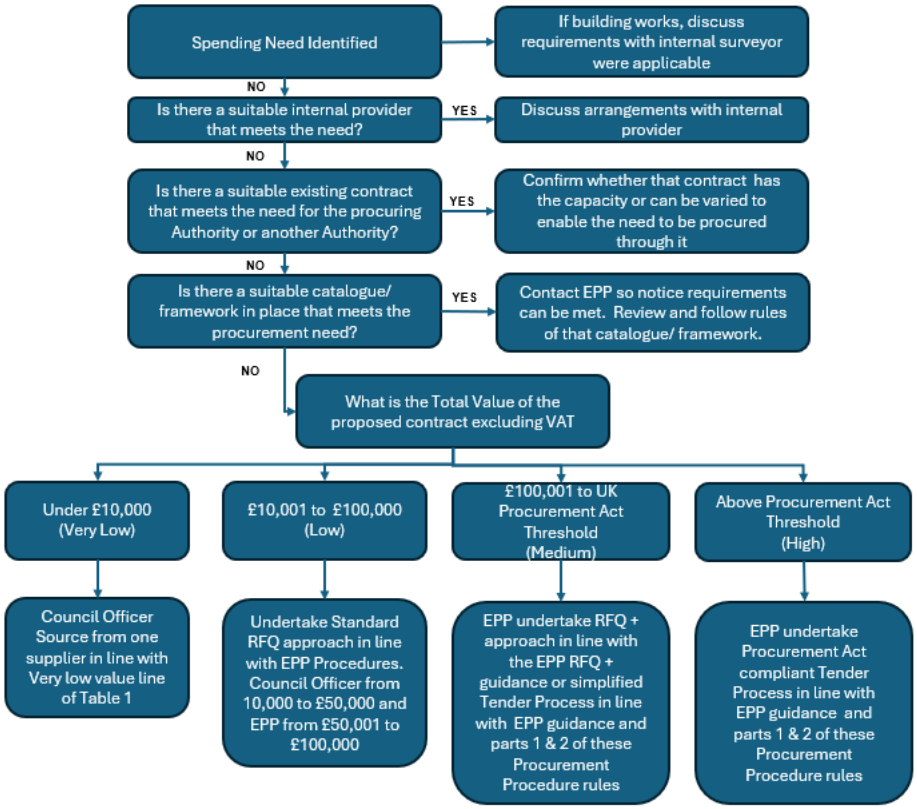
this is to enable EPP to publish the required notices as required under the Procurement Regulations 2024.

Due Diligence throughout Contract

It is the responsibility of the officers within the Service Area to check up to update insurance cover, policies and consents required through the specification.

Part 2 - The Rules for all Tenders and Request for Quotations

Procurement Process Flow Chart



1. General

1.1. All Officers must comply with the Council's Code of Conduct when undertaking a procurement process.

1.2. Directors and Managers must ensure that all their staff involved in the selection of suppliers, award and management of contracts comply with the Council's:

(a) Procurement Strategy,

(b) these Rules,

(c) Social Value Policy

(d) the EPP Procurement Procedures, and

(e) decision making requirements,

in addition to the Council's Budget and Policy requirements and legislation and receive the appropriate procurement training to enable them to do so including, training on Modern Day Slavery and the Prevent Duty.

1.3. All Officers shall ensure that all procurement activity is undertaken in accordance with these Rules, Council's policies and procedures and the Council's Financial Regulations.

1.4. All Officers conducting tenders must ensure that all activity is undertaken with the aim of:

- Achieving the best value for money reasonably possible,
- maximising public benefit,
- acting in a transparent way and with integrity,
- treating suppliers fairly
- giving appropriate consideration as to how to make opportunities attractive to small and medium sized enterprises and how to remove barriers to SME's in bidding for these opportunities
- Considering how social value can be maximised through the contract

1.5. The approved electronic ordering system will be used for all procurement, except where otherwise detailed within these Procurement Procedure Rules.

1.6. The electronic sourcing tool must be used to conduct all competitive tender processes over £100,000.

1.7. Where a contract has a value of over £10,000

(a) Officers must record and keep a record of prices obtained and of the decision taken.

(b) Officers must send Request for Quotation (RFQ) award notification forms to EPP via the form on the EPP Sharepoint site which can be accessed via the Procurement pages on the Council's intranet site. This process to be followed so that EPP have sight of the end information in order to be able to publish under the requirements of the Act.

1.8. Contracts must be in writing; oral contracts are not allowed, and all contracts must clearly specify what the contractor is required to do.

1.9. No contract may provide for money to be paid to a third party on terms which require money to be held by the third party and then paid out on the Council's instructions unless there is a clear justification for this action agreed by the Section 151 officer, a clear purpose for the spending and a transparent process for releasing funds. Use of subcontractors is permitted as set out in the terms and conditions but must be in accordance with the quotation or tender documentation.

1.10. When buying services that involve the contractor in some form of processing personal information on behalf of the council, Officers must seek guidance from the Council's Information Governance Officer

1.11. Budget holders must ensure that they are properly trained to undertake tender activities and that anyone else undertaking such activities on their behalf are trained.

1.12. Officers must ensure that all procurement activity is based upon business needs which must be carefully specified in any procurement documents. Officers should be mindful that inaccurate specifications may lead to a contractor not being required to meet the Council's needs or a misunderstanding or confusion amongst potential bidders, or a tender which is not priced to reflect the council's actual requirements.

1.13. In addition to the general principles in paragraph 1.4 Officers must ensure that:

1.13.1. Requirements are specified based on the desired outcome rather than how the outcome is to be met, thereby encouraging flexibility and innovation wherever possible.

1.13.2. appropriate records are kept so that the reasons for decisions can be evidenced.

1.13.3. Ensure that Conflicts of Interest are declared using the Declaration of Interest forms and no one may take part in a procurement if they have an identified conflict of interests unless they have the prior written permission of the monitoring officer and comply with any conditions attached to that permission.

1.14. All procurement activities undertaken by the Council must be properly authorised in accordance with Council's Constitution.

1.15. Suppliers invited to respond to an invitation to submit a bid must be given an adequate period in which to prepare and submit a compliant tender, consistent with the complexity and urgency of the Council's requirement.

1.16. Officers must ensure that all notices required by law are published in line with

procurement legislation.

2. Total Contract Value

2.1. The total contract value must be used to determine the appropriate spend threshold and sourcing activity process, as classified in accordance with Table 1. Spend cannot be disaggregated to artificially lower the contract value. The total contract value must be calculated as the total of:

2.1.1. The total anticipated spend under the contract over the entire contract period, assuming that any contractual extension is exercised which the Council pays **AND**

2.1.2. The total value of all similar contracts which could reasonably have been tendered together with the proposed requirement. Contracts must not be split or shortened to artificially reduce the value of individual contracts **AND**

2.1.3. The estimated value of all contracts where a single requirement for work of the same or a similar kind involves more than one contract.

2.2. Where the value of the quotes or tenders received exceeds the threshold in Table 1 above for the process used the contract may not be awarded unless (a) it is lawful and (b) in consultation with the Council's Section 151 Officer and Monitoring Officer.

2.3. The contract documentation must be appropriate to the type of contract being procured, its value, the Council's standard terms and conditions or those agreed with Legal Services and signed or executed for completion in accordance with Article 14 of the Council's Constitution.

3. Framework or Dynamic Purchasing System (DPS)

3.1. Where

(a) The Council has established a framework agreement, dynamic purchasing system (DPS) or dynamic market, or

(b) there is another such arrangement which is available for the Council to use and

(i) Officers have satisfied themselves that the Framework created by

other organisations are appropriate and lawful (taking advice where necessary);

(ii) which and meets the business requirements in terms of the suppliers on the framework and the prices quoted; and

(iii) it has been procured in a way which complies with the relevant procurement legislation; and

(iv) the Service Area has taken into account the terms and conditions of the Framework Agreement, The Council's compliance requirements including the Call-Off Agreement.

(v) due diligence of the Framework or DPS will not routinely be conducted by the Council's Finance Department, and only upon exception where concerns are raised.

this should normally be considered as the preferred route to market for all spend over £100,000 (excluding VAT). Nothing in this rule requires the Council to use a framework of doubtful legality.

3.2. Where an Officer wishes to use a framework agreement, DPS or Dynamic Market which has been set up by another organisation they must check that the Council is permitted to use the framework. Advice about the use of framework agreement, DPS or Dynamic Market should be sought from EPP.

3.3. EPP and the relevant Service Area will discuss the benefits of framework call off vs open tender. Following advice, the final decision on which route to take will be recorded as the procurement approach for that procurement, alongside advice given.

4. Direct Award

4.1. Direct awards can only be made where:

4.1.1. The value falls below £10,000 (excluding VAT), or

4.1.2. A Framework Agreement allows for this procedure and the Council's relevant Officer, agrees that there is justification to not compete, or

4.1.3. The goods or services are procured from an in-house team, or

4.1.4. For the engagement of Counsel by the Corporate Director – Law and

Governance, or

4.1.5. Where a partnership arrangement has been entered into with a contractor or a supplier as a result of competitive tendering, and the proposed procurement is within or related to the documented scope of that partnership arrangement. In such cases the Corporate Director/Head of Department must be able to demonstrate that the proposed procurement through such a partnership arrangement is advantageous to the Council (e.g. continuity of service or product supply or extension of existing arrangements).

4.1.6. It is lawful to award the contract in this way, legal advice has been sought and a waiver has been granted with the necessary decision being recorded.

4.1.7. The Council is under a non-discriminatory obligation when making direct awards above or below Procurement Act 2023 threshold and compliance must be demonstrated.

4.2. Where a direct award is permissible, a transparency notice must be published before a contract is directly awarded if the contract is valued above the procurement legislation threshold.

~~4.3.~~ Direct award exemptions are available for extreme circumstances or in a matter of urgency as determined by the appropriate Corporate Director following consultation with the responsible Portfolio Holder or Leader of the Council, Section 151 Officer and Monitoring Officer, with the necessary decision being recorded.

5. Concession Contracts

5.1 A concession contract is an agreement in which a public authority grants a private operator the right to deliver and manage a service or asset, allowing the operator to earn revenue—often from users—in return for investing in, operating, and maintaining that service or asset.

5.2 Where a service is seeking a Concession Contract, Officers must seek advice from EPP.

6. Sustainable Procurement

6.1 Sustainable procurement is the practice of acquiring goods, services, and works in a way that delivers value for money while minimising environmental impact, supporting social wellbeing, and promoting long-term economic sustainability.

6.2 Tenders must be designed having regard to the needs of Small and Medium Enterprises (SMEs).

6.3 Template documents and processes must be drafted to be kept as simple as possible to ensure SMEs are not disadvantaged.

6.4 When using the Request for Quotation process, or directing below-regulation spend, focus must be given to targeting local SMEs.

6.5 When agreeing the award criteria for a contract valued over £100,000, Social Value must be included for all tenders, up to 20% weighting, in line with the Social Value Policy adopted by the EPP Councils except where an exemption has been approved by the Strategic Officer Group Authority Representative.

6.6 An Equalities Impact Assessment (EIA) must also be completed for any requirement classified as Medium or High Value.

6.7 Business Continuity Planning must be considered for all tenders valued High (over the legislation threshold) or where the service is identified as critical to the Council or as determined through the Council's Risk Management.

7. Collaborative Working/Partnerships

7.1. Where the Council is collaborating with another body which is acting as the procurement lead organisation, other than ECC as the Accountable Body of EPP, the Officer must ensure that the Council does not enter into any arrangements unless satisfied that the Council will achieve value for money and be capable of maintaining proper control that is consistent with the Council's Procurement Procedure Rules and Procedures.

7.2. Officers must seek financial and legal advice before proceeding with collaboration with another body.

8. Local Authority and Other Delivery Vehicles

8.1 Any partnership arrangement which involves the creation of or participation in separate legal entities such as joint ventures, trusts or limited companies requires the prior agreement at Cabinet to ensure all of the necessary governance arrangements have been considered, various options taken into account and reasons for the decision are properly set out and recorded.

8.2 No agreement may be entered into if it means that the Council will act as guarantor for a third party or accountable body unless the prior written agreement of the Director of Finance has been obtained following legal and financial advice. Any such agreement must also comply with the Council's Financial Regulations.

9. TUPE

9.1. If there is any doubt as to whether a procurement exercise might be impacted by TUPE, the Officer must always seek advice from Legal Services and EPP.

10. IR35

10.1. Before purchasing consultancy or the services of interim staff who work through their own intermediary, officers must undertake appropriate checks as to whether off-payroll working rules (IR35) apply. Officers can check if the off payroll working rules apply using the Check employment status for tax service website.

10.2. Consultancy arrangements are contracts for services and the normal values and thresholds apply.

11. Negotiation

11.1. Officers must not conduct post-tender negotiations without the prior agreement of the EPP. Only undertaken where it is lawful to do so relating to the procurement route taken and the contract terms & conditions (if awarded).

11.2. Notwithstanding 11.1, Officers may, as part of the tender, seek and receive clarifications from bidders or submit clarifications to all bidders involved. The clarification process during a tender is a means by which both bidders and

Officers are able to seek further information, either in respect to the content of a tender or in relation to a bid that has been received, e.g. something in the specification, pricing model, an element of response is missing or the bidder has forgotten to provide an additional document referenced in their response.

12. Evaluation and Award Process

12.1 All procurement exercises must follow a fair, transparent, and non-discriminatory process. Evaluation must be based solely on the Published Evaluation Criteria and applied consistently to all bidders.

12.2 The Evaluation Criteria is developed by the Service Area with support from EPP.

12.3 For Low Value procurements one evaluator from the Service Area will assess the returned RFQ documentation –

12.4 For Low to Medium Value, if the price is the sole criteria for selection, one evaluator can assess the returned RFQ documentation, should non-financial criteria be included, a second evaluator is required.

12.5 For Medium Value and above procurements, the Service Area will allocate at least three evaluators (the Panel).

12.6 The Service Area will agree suitable Evaluators who must evaluate in line with the Published Evaluation Criteria using objective, proportionate criteria with clear weightings. Evaluators will score independently before consensus.

12.7 In evaluating **Quality** evaluators will assess methodology, experience and social value at a minimum. Scoring will be against the Council's scoring matrix with full justification given by evaluators for each score against this matrix

12.8 In evaluating **Social Value**, EPP with the Service Area will evaluated using the Themes and Outcome Measures in line with the Social Value Policy, with this score included as part of the quality evaluation

12.9 In evaluating **Price,** a transparent price evaluation must be applied via lowest price, total cost of ownership, or scoring formula agreed by the Service Area ahead of the tender or RFQ. EPP will check accuracy and compliance with the pricing criteria set out in the tender.

12.10 In undertaking the Moderation and Consensus of Medium Value procurements and above. All evaluators will review individual scores and the

rationale for those scores with those discussions resulting in an agreed consensus score. Full notes and rationale for the final agreed score must be kept for a full audit trail. Average scores cannot be used.

12.11 Using the scores from the moderation and consensus session alongside Price and Social Value, EPP will determine in a robust and transparent way the Most Advantageous Tender. Award will be to the highest combined Price and Quality (including Social Value) score.

12.12 Following the identification of the Most Advantageous Tender, necessary due diligence checks will be undertaken by EPP with support which may include financial vetting (undertaken by the Finance team of the Council), reference checks and the verification of legal or accreditation requirements according to the requirements of the procurement.

12.13 The Service Area, with support from EPP, will produce the Award Decision Report and gain any necessary governance approvals. EPP will, on agreement with the Service Area, notify bidders and issue standstill letters where applicable.

12.14 EPP will finalise the contract (together with Legal Services) after standstill where required, notify bidders and issue standstill letters where applicable.

12.15 EPP with the Service Area must maintain a full audit trail including scores, clarifications, decisions and communications

13. Contract Variations

13.1. No contract may be varied unless it is lawful to do so. Advice from Legal Services and EPP should be sought before amending or agreeing to amend any contract which value is low to medium, medium, high or very high-value, as there are legal requirements and financial considerations for contract variations.

14. Purchase Orders

14.1. Unless specifically agreed by the Section 151 Officer, all contract spend, unless using one of the other specified options for Very Low Value (see Table 1), must be confirmed via a Purchase Order using the Council's approved official ordering system.

Where a requisition is raised, the details of or copies of the applicable contract (and any Procurement Waiver) must be sent with the requisition

15. Terms and Conditions

15.1. For all tender processes, the terms and conditions of contract must be available as part of the tender documents when the requirement is published.

16. Waivers/exemptions -

16.1. Officers may be exempt from the need to obtain competitive quotations/prices as set out in these Rules by following the Procurement Waiver process.

16.2. Advice from EPP and the Council's Legal Service must be sought with sufficient time to allow these Rules to be applied to any procurement activity, before a waiver decision is taken by the relevant decision maker. Failing to programme procurement activity in accordance with the Council's arrangements, capacity and resources is not a reason to seek a procurement waiver/exemption.

16.3. A Procurement Waiver/Exemption should be sought and completed in line with the Waiver/ Exemption process in place within the Council.

16.4. Any Procurement Waiver/ Exemption should demonstrate how value for money is being achieved. A Waiver/Exemption will not be granted unless Value for Money is demonstrated.

16.5. The following Table describes the approval levels required for waivers:

TDC Estimated total value of contract (aligning with Spend Thresholds in Table 1)	**TDC Approval needed**
Very Low Value (£0 to £10,000)	Approval of the relevant Corporate Director in consultation with the Chief Financial Officer (Section 151 Officer). Procuring Service Area must produce and publish an Officer Decision to record this.

Low Value (£10,001 to £50,000)	Approval by Chief Financial Officer (Section 151 Officer) in consultation with the Corporate Finance and Governance Portfolio Holder. Procuring Service Area must produce and publish an Officer Decision to record this.
Low to Medium Value (£50,001 to £100,000)	Approval of the CFO in consultation with Portfolio Holder(s) for Corporate Finance and Governance and Corporate Procurement and Monitoring Officer. Procuring Service Area must produce and publish an Officer Decision to record this.
Medium Value (below threshold) £100,001 to relevant Procurement	Portfolio Holder(s) for Corporate Finance and Governance and Corporate Procurement following consultation with the Chief Financial Officer (Section 151 Officer) and Monitoring Officer. Procuring Service Area must produce and publish an Executive Decision to record this.
High Value (above threshold) Over relevant Procurement Act 2023 threshold	Approval by Cabinet with detailed report prepared by the Procuring Service Area with necessary advice included, specific focus on exemptions with the legislation being relied upon and why.

16.6. The waiver process and/or any other applicable governance must be successfully completed prior to an order being placed or contract being entered into with a supplier.

16.7. Where a waiver is granted, the procurement may go ahead without complying with the specific rule for which a waiver is granted but no contract may be entered into without the requirements being clearly specified.

16.8. All Waivers are required to be registered and reported to the Council's Audit Committee.

17. Contract Management

17.1. Contracts must manage the contract in accordance with the guidance provided by EPP.

Part 2 - Rules for the EPP

These rules are for EPP. Certain procurement activities must only be performed by Procurement Officers with the appropriate level of experience and who are authorised to do so.

18. Defining the Need

18.1. Prior to commencing a tender, unless already approved through formal decisions, Procurement Officers will ensure there is an appropriate critical friend challenge to the Council's requirements to ensure that such requirements are actually required and consider whether alternative methods of meeting these needs could be utilised including where appropriate, mandated contracts (listed on the Intranet), recycling or re-use of existing resources.

19. Types of Contract

19.1 Ensure the Service Area or EPP directly engages with the Council's Legal Services (or as authorised by the Council's Monitoring Officer) to ensure that the appropriate type of contract documentation has been discussed and agreed upon for the type of services or works to be procured.

19.2 The necessary Contract Data has been complied by the Service Area in consultation with Legal Services prior to advertising or publication of notices.

19.3 The Council's approved Standard Contract and its terms and conditions must not be varied without prior approval, following justification being provided to Legal Services.

19.4 Framework Agreements, Call-Off contracts and use of any industry specific terms and conditions advice must be sought from the Council's Legal team to avoid the Council being exposed to unnecessary risk.

19.5 Where a contract contains a mix of supplies, works and/or services the following must be applied:

19.5.1 Where a contract covers both services and supplies, the classification must be determined by the respective values of the two elements.

19.5.2 Where a contract covers works/supplies or works/services, it must be classified according to its predominant purpose.

19.5.3 Where a contract provides for the supply of equipment and an operator it must be regarded as a services contract.

19.5.4 Contracts for software must be considered to be for supplies unless the majority of the value of the contract is the cost of configuring the system or tailoring the software to the purchaser's specification, in which case they are services.

20. E-Sourcing Tool

20.1. Where the E-Sender tool is used, all communication between the Council and bidders must be conducted through the tool.

20.2. In exceptional circumstances where the E-Sender tool is not used or where another procurement authority's E-Sender tool is used, a record of all communications and decisions with detailed rationale must be recorded for audit purposes and to demonstrate proper conduct in accordance with the regulations and Procurement Policy and Procedures.

General Principles Across all Medium and High- Value ~~Risk~~ Tenders

21. Pre Market Engagement

21.1 Pre-Market Engagement is the process through which the Council interacts with the market before formally beginning a procurement, enabling Officers to understand current industry capabilities, market conditions, innovation opportunities, and

potential delivery models. It supports the development of well-informed specifications and evaluation criteria, helping to ensure that procurement routes are proportionate, competitive, and attractive to suppliers—particularly SMEs and voluntary sector organisations.

21.2 Before undertaking Pre Market Engagement, Officers with the support of EPP must ensure the requirements to undertake the procedure are fulfilled, for example, a Preliminary Market Engagement Notice is published on the Central Digital Platform.

21.2 In undertaking this Officers should ensure the Pre-Market Engagement is open, transparent, and non-discriminatory, offering equal access to information for all potential bidders and avoiding any activity that could distort competition or provide an unfair advantage.

22. Advertising

22.1. All Medium and High Value classified tenders must be appropriately advertised (including Light Touch Services), in line with the relevant legislation.

22.2. The Central Digital Platform must be used to advertise all tenders with a total contract value in excess of £100,000 (excluding VAT). This is through a Tender Notice. Where the RFQ+ process is used, the requirement does not need to be advertised.

22.3. The Central Digital Platform must also be used to advertise the outcome of any procurement over £30,000 (inclusive of VAT).

22.4. Where required, High Value contracts must be the subject of a call for competition by publishing the relevant Notice using the Central Digital Platform.

23. Selection and Award Criteria

23.1 Officers must define and publish all tender documents at the time of publication including the selection criteria (i.e. the criteria used at the pre-qualification stage – High Value procurements only) and assessment criteria (i.e. the criteria for the tender stage).

23.2 Processes and documents must be appropriate and proportionate to the risks of the tender and designed to secure an outcome that will provide best value for the Council, based on the following principles:

23.2.1 'Highest price' if payment is to be received by the Council; or

23.2.2 'Most advantageous tender' where payment is to be made by the Council and consideration other than price applies.

24. Invitation to Tender (ITT)

24.1. The ITT must state that the Council is not bound to accept any tender and may decide not to award any contract and, in such circumstances, bidders will be wholly liable for their bid costs.

24.2. All organisations invited to tender must be issued with the same information, at the same time and be subject to the same conditions.

25. Managing Tenders

25.1. All requirements covered by the Procurement Act 2023, Public Contract Regulations 2015 and Procurement Regulations 2024 or Health Care Services (Provide Selection Regime) Regulations 2023 must follow the time periods specified in the Regulations.

25.2. Should only one bidder participate in a Medium Value process then no contract may be awarded without consultation with the Council's Section 151 and Monitoring Officers (for TDC).

25.3. Should fewer than five eligible bidders request to participate in a Competitive Flexible Procedure then no contract may be awarded without the written permission of the Monitoring Officer

26. Contract Award

26.1. For High Value Tenders officers must provide an assessment summary to

each supplier at the same time and before the Contract Award Decision Notice is published.

27. General Principles Across High Value Tenders

27.1. Officers involved in High Value tenders must familiarise themselves and remain up to date on current interpretation of the legislation to ensure the Council is not exposed to avoidable risk.

27.2. Officers must ensure that they are familiar with the current legislation to ensure that all tenders subject to their requirements are let in a compliant manner.

28. Standstill Period

28.1. Notwithstanding the Contract Award Decision, where required under the legislation, the contract must not be awarded until a mandatory 'standstill' period of eight working days beginning with the day the contract award notice is published.

29. Framework Procedures

29.1. Framework requirements will differ depending upon the terms and condition of the Framework Agreement and call-off arrangements as set out in the Framework Agreement must be adhered to.

29.2. Call-offs from a framework will either be via a direct award process (where this meets legislative requirements) or further competition.

29.3. The scoring methodology is pre-described and should be adhered to unless express provision is made in the framework that this can be altered. This will be subject to any necessary approvals and governance.

29.4. Awards under a Framework must be published on the Central Digital Platform.

29.5. Framework terms and conditions will not be altered where a direct award process is being used.

29.6. The necessary governance and notice requirements must still be complied

with.

30. Execution of Contract

30.1. Unless otherwise advised by the Monitoring Officer, or their nominated delegate, all contracts (including framework agreements) in excess of £50,000 (for TDC) £1,000,000 must be executed under the Common Seal of the Council.

30.2. Outside of the above criteria all contracts must be signed in accordance with Article 14 of the Constitution (which covers Finance, Contracts & Legal Matters) (for TDC) the relevant section of the Scheme of Delegation.

30.3. All contracts should be executed by the supplier and by the Council before the contract may commence.

31. Contracts Register

31.1. Procurement Officers must ensure that all contracts, tendered by the EPP and awarded above £50,000 (including VAT) are recorded on the Council's contracts register within one month of the contract commencement date.

31.2. Where a Request for Quotation has been completed by the Service Area EPP must ensure that they log the award on the Council's contracts register once notified by the relevant contract owner.

32. Records

32.1. Contracts and Records must be retained for audit purposes for a period of seven years from conclusion of the contract, or twelve years where the contract is under seal.

32.2. All correspondence is automatically stored on the Council's e-Sourcing platform where that tool is used.

32.3. Records of any challenges and outcomes must be fully documented and retained.

33. Contract Management of Tier 1 and Tier 2 Contracts

33.1. Workflows should be followed unless a formal deviation is submitted for approval to the relevant Council Director in whose service the contract sits.

33.2. Records must be kept ensuring that transparency requirements can be met.

33.3. Modifications and variations must be carried out in accordance with legislation and transparency requirements must be followed.

OFFICER EMPLOYMENT PROCEDURE RULES

Introduction

In accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) ("the Regulations") and subject to the Procedure Rules set out below, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Council must be discharged, on behalf of the Council, by the officer designated under section 4(1) of the Local Government and Housing Act 1989 (designation and reports of Head of Paid Service) as the Head of Paid Service or by an officer nominated by him. Should any conflict arise between these officer Employment Procedure Rules and the relevant legislation, the latter will prevail.

Nothing shall prevent a person from serving as a member of a committee or sub-committee established by the Council to consider an appeal by –

(a) another person against any decision relating to the appointment of that person as a member of staff of the Council, or

(b) a member of staff of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

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 or Officer of the Council; or of the partner of such persons (or if they are related in any other way to such persons).

(ii) No candidate so related to a Councillor or Officer will be appointed without the authority of the Head of Paid Service or an Officer nominated by him.

(iii) A candidate who fails to disclose a relationship as set out in (i) above shall be disqualified for the appointment and, if appointed, shall be liable to dismissal without notice.

(b) Seeking support for appointment

(i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillors for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

(ii) Subject to paragraph (iii), no Councillors will seek support for any person for any appointment with the Council.

2. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS

Where the Council proposes to appoint a Chief Officer (* as defined in Paragraph 3 of Part II of Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2011 (as amended) and any assistant to political groups) and it is not proposed that the appointment will be made exclusively from among its existing Officers, the Council will:

1. (a) Draw up a statement specifying:

(i) the duties of the Officer concerned

(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.

(c) Make arrangements for a copy of the statement mentioned in (a) above to be sent to the person on request.

2. Where a post has been advertised as provided in 2.1 above, the Council shall –

(a) Interview all qualified applicants for the post, or

(b) select a shortlist of such qualified applicants and interview those included on the shortlist.

3. Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with 1. above.

3. APPOINTMENT OF HEAD OF PAID SERVICE, MONITORING OFFICER AND CHIEF FINANCIAL OFFICER

(a) Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the appointment of an officer designated as the head of the authority's paid service, Full Council must approve that appointment before an offer of appointment is made to that person.

(b) Full Council will approve the appointment of the Head of Paid Service, Monitoring Officer and Chief Financial Officer following the recommendation of the Human Resources Sub-Committee of the Council. That Sub-Committee must include at least one member of the Cabinet.

(c) Full Council may approve and make the appointment of the Head of Paid Service, Monitoring Officer and Chief Financial Officer only where no valid well-founded objection has been made by any member of the Cabinet.

4. APPOINTMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

(a) The Human Resources Sub-Committee of the Council will appoint the Chief Officers (*). That Sub-Committee must include at least one member of the Cabinet.

(b) An offer of appointment to the post of a Chief Officer (*) shall be made only where no valid well-founded objection from any member of the Cabinet has been received.

(c) A central record of Chief Officer posts covered by Paragraph 3 of Part II of Schedule 2 of the Local Authorities (Standing Orders) Regulations 2001 (as amended) will be produced by the Head of Paid Service and the Monitoring Officer and held in Human Resources.

5. NOTIFICATION OF APPOINTMENTS

(a) An offer of appointment can only be made to an individual by the correct 'appointer', being the Council or a committee, sub-committee or authorised nominated officer of the Council discharging the function of appointment on behalf of the Council as determined by the Regulations and these Procedure Rules.

(b) No offer of an appointment shall be made to the Head of Paid Service, Monitoring Officer, Chief Financial Officer, or Chief Officer post (*) until:

(i) The Chairman of the Human Resources Sub-Committee (on behalf of the Sub-Committee) has notified the Assistant Director (People) of the name of the person to whom the post is to be offered and any other particulars relevant to the appointment which the Sub-Committee has notified to the Assistant Director (People).

(ii) The Assistant Director (People) has notified every member of the Cabinet of the name and of the person to whom the post is to be offered any other particulars relevant to the appointment and the period for objection.

(c) The Leader of the Council may object, on behalf of the Cabinet, to the appointment within 3 working days of the issue of the notice in (b) above.

(d) An offer of appointment may then only be made if:

(i) The Leader of the Council has notified the Assistant Director (People) within 3 working days that neither they, nor any other Member of the Cabinet has any objection to the making of the appointment; or

(ii) The Assistant Director (People) has notified the Sub-Committee that they have not received any objection from the Leader in the period specified in (c) above; and

(iii) The Sub-Committee is satisfied that any objection received from the Leader within that period is neither material nor well-founded.

6. OTHER APPOINTMENTS

The appointment of Officers below the Deputy Chief Officer is the responsibility of the Head of Paid Service or their nominee, and may not be made by Councillors.

7. DISCIPLINARY ACTION IN CONNECTION WITH CHIEF OFFICERS

(a) The Human Resources Sub-Committee shall deal with disciplinary action (this has the same meaning as defined in the Local Authorities (Standing Orders) (England) Regulations 2001) in connection with the Council's Chief Officers (*) as defined in this Constitution, and any assistant to political groups and resolve any action which it considers appropriate.

(b) With regards to disciplinary issues in connection with the Council's statutory officers, the Committee can only resolve action short of dismissal. In instances where its recommendation is to dismiss any Statutory Officer it must adhere to the processes set out in these Procedure Rules and the full Human Resources and Council Tax Committee together with the Independent Persons must refer its recommendation to Full Council.

(c) The Council's statutory officers are those defined as Head of the Council's Paid Service, Chief Financial Officer and Monitoring Officer.

8. DISCIPLINARY ACTION IN CONNECTION WITH OFFICERS BELOW DEPUTY CHIEF OFFICER

Members will not be involved in the disciplinary action or dismissal against any officer below a Deputy Chief Officer. The Council's disciplinary, capability and related procedures, as adopted from time to time will apply, and may allow a right of appeal to Members in respect of disciplinary action.

9. DISCIPLINARY & DISMISSAL CASES INVOLVING THE COUNCIL'S STATUTORY OFFICERS: HEAD OF PAID SERVICE, THE CHIEF FINANCIAL OFFICER AND THE MONITORING OFFICER:

9.1 In the following paragraphs-

(a) "the 2011 Act" means the Localism Act 2011;

(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 by 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.

9.2 A relevant officer may not be dismissed by the authority unless the procedure set out in the following paragraphs is complied with.

9.3 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.

9.4 In paragraph 2.3 "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.

9.5 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 2.3 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.

9.6 The authority is not required to appoint more than two relevant independent persons in accordance with paragraph 2.5 but may do so.

9.7 The authority must appoint any Panel at least 20 working days before the relevant meeting.

9.8 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.

9.9 Any remuneration, allowances or fees paid by the authority to an independent person appointed to 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 an independent person under the 2011 Act.

10. DISMISSAL

(a) Members will not be involved in the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct. 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 dismissals.

(b) Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the dismissal of an officer designated as the Head of Paid Service, Chief Finance Officer or Monitoring Officer, Full Council must approve that dismissal before notice is given to that person (the statutory procedure set out in 9 above must be followed prior to such dismissal)

(c) Where a committee or sub-committee is discharging, on behalf of the Council, the function of the dismissal of a Chief Officer, at least one member of the executive must be a member of that committee or sub-committee.

(d) Notices of dismissal can only be made to an officer by the correct 'dismissor', being the Council or a committee, sub-committee or an authorised nominated officer of the Council discharging the function of dismissal on behalf of the Council as determined by the Regulations and these Procedure Rules.

(e) Notice of dismissal must not be given to the Head of Paid Service, Monitoring Officer, Chief Financial Officer, or Chief Officer post (*) until:

(i) The Chairman of the Human Resources Sub-Committee (on behalf of the Sub-Committee) has notified the Assistant Director (People) of the name of the

person the Sub-Committee wishes to dismiss and any other particulars relevant to the dismissal which the Sub-Committee has notified to the Assistant Director (People).

(ii) The Assistant Director (People) has notified every member of the Cabinet of the name of the person who the dismissor wishes to dismiss, any other particulars relevant to the dismissal and the period for objection.

(f) The Leader of the Council may object, on behalf of the Cabinet, to the dismissal within 3 working days of the issue of the notice in (e) above.

(g) Notice of dismissal may then only be made if:

(i) The Leader of the Council has notified the Assistant Director (People) within 3 working days that neither they, nor any other Member of the Cabinet has any objection to the dismissal; or

(ii) The Assistant Director (People) has notified the Sub-Committee that they have not received any objection from the Leader in the period specified in (f) above.

(iii) The Sub-Committee is satisfied that any objection received from the Leader within that period is neither material nor well-founded.

SCHEME FOR DEALING WITH PETITIONS

Tendring District Council recognises the importance of petitions as a means of engaging with local communities, enabling the public to air concerns, and as a mechanism for generating service improvements. These pages set out what a petition is, how the public can submit a petition, how it will be dealt with and what the Council can do to respond to the issues raised.

What Constitutes a Petition

Any communication which is signed by, or sent to the Council by **30 or more** people who live, work or study within Tendring shall be treated as a petition provided that such communication has a clear message or instruction upon which it would wish the Council to act.

Any communication which is signed by, or sent to the Council by **less** than 30 of the people who live, work or study within Tendring shall not be treated as a petition but, where it relates to a matter for which the Council has responsibility for, it shall be forwarded to the appropriate officer of the Council to acknowledge and advise what action, if any, will be taken.

Signatory Eligibility

The Council is keen to receive feedback from all residents, visitors and from people working or studying in the Tendring area, through various communication channels. However, only those people who are either (a) permanent residents of Tendring or (b) non-residents who can be clearly identified as either working or studying in Tendring can trigger a formal petition response.

There is no legislation supporting the minimum age requirement for a person to initiate or support a petition. Accordingly, children and young people have the ability to submit a petition as it is deemed they have the same rights and opportunity for their voices to be heard as well as adults. However, it is recognised that in practice, a teacher or parent would oversee the submission of a petition from school children where such children are under 16 years of age.

Whilst the Council welcomes petitions as a means of highlighting concerns within a local area, the lead petitioner has a responsibility to ensure that any petition submitted is done so under the principle of good faith and be decent, honest and respectful.

Information to be included

Any petition submitted must contain the following:

- A clear and concise statement covering the subject of the petition, the area to which the petition relates and what action the petitioners want the Council to take;

- The contact details for the petition organiser (lead petitioner) so the Council knows who to contact (where the lead petitioner is not identified, the Council shall correspond with the person named first on the petition);

- The name, full address, postcode and signature of any person supporting a traditional paper petition (address details will be checked). Such a petition must be accompanied by a dated covering letter that identifies the key information outlined in this procedure about the purpose of the petition, what action is called for and contact details for the lead petitioner;

- The name, postcode and email address for those persons who sign up to an electronic petition or e-petition; and

- The date the petition was submitted.

Any petition that does not comply with the above requirements will be deemed invalid.

1. How to Submit a Petition to the Council

Petitions can be submitted to the Council in the following ways:

- E-petition – The petition must be submitted via the Petitions function on the Council's website (www.tendringdc.gov.uk). Where no end date to an e-petition is specified, the Council shall set this at 93 days from the date of receipt of the petition.

- Paper petitions must be sent to The Democratic Services Manager, Tendring District Council, Democratic Services & Elections, Town Hall, Station Road, Clacton-on-Sea, Essex CO15 1SE.

2. What happens when a Petition is submitted?

- Receipt of a petition will be formally acknowledged to the lead petitioner in writing or by email as appropriate, within five working days of its receipt. In relation to an E-petition the lead petitioner will be informed that the Council will deem the petition to be held 'in abeyance' until such time as the end date has passed. At which time the Council will count up and, if necessary, verify the signatures etc. The Council will then action the petition in accordance with the provisions of this Scheme.

- The Council will accept any petition on face value but reserves the right to verify the signatures or investigate further, if deemed necessary. The petition must not be vexatious or frivolous or defamatory or offensive. It must not be substantially the same as a Petition previously received and dealt with by the Council within the past 12 months.

- It must also relate to a matter for which the Council has responsibility for, subject to the exceptions detailed below:

  Petitions Received in respect of Planning Applications, the Local Plan making process and other Regulatory Matters (such as licensing applications submitted under the Licensing Act 2003 and the Gambling Act 2005**)**

  Petitions received in respect of planning or licensing applications shall not be treated as petitions for the purposes of this scheme but will be sent to the appropriate department and will be considered as representations received in relation to that particular application or planning matter.

  Petitions received in respect of the Local Plan making process will be referred to the Planning Policy & Local Plan Committee.

  Community Governance Petitions

  Community Governance petitions will be considered initially against the relevant provisions of the Local Government and Public Involvement in Health Act 2007. Those petitions that do not meet the criteria under that Act to trigger a Community Governance Review will then be considered against the criteria contained within this Scheme.

  Petitions for a Referendum for an Elected Mayor and Cabinet or a Committee System of Local Government

  Petitions for a referendum for an Elected Mayor and Cabinet or a return to a Committee System of Local Government will be considered initially against the relevant provisions of the Local Government Act 2000 and related legislation such as the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2011 (as amended). Those petitions that do not meet the criteria under that Act and supporting legislation to trigger a Referendum will then be considered against the criteria contained within this Scheme.

  The Assistant Director Corporate Policy and Support, in their absence or other unavailability, the Democratic Services Manager) will decide whether a petition is valid and/or acceptable. In making their decision those Officers will consult, if necessary, the Monitoring Officer. If the decision made is to reject the petition as being invalid and/or unacceptable the Assistant Director Corporate Policy and Support (or Democratic Services Manager) will inform the Lead Petitioner accordingly, explaining the reasons why the petition cannot be accepted under this scheme and, if appropriate, informing the petitioner that the petition will be forwarded to the relevant department together with a request that they respond directly to the petitioner on the matters raised.

- If the issue contained within the petition is not something which the Council would ordinary consider in public as it would require the disclosure of confidential or exempt information (as defined in local government law), the lead petitioner will be informed accordingly, explaining the reasons why the petition cannot be accepted under this scheme and where

- appropriate, referring the petitioner to the relevant department and advising them as to how their views can be expressed via alternative means.

- If the issue contained within the petition does not relate to any functions or responsibilities of the District Council, but does relate to a matter for which Essex County Council or other body or partner is responsible, the petition will be forwarded to that organisation and the lead petitioner advised accordingly.

- Each petition received shall be based on a tiered system whereby:

  (a) A valid petition containing 30 to 500 signatures from Tendring residents or non-residents who can be clearly identified as either working or studying in Tendring, will be reported to Council for information. It will then be presented to the first practicable meeting of the Cabinet (if it relates to a matter that is an Executive function under the law) or the appropriate committee and then, if so requested, the matter will be investigated and a report will be brought back to the Cabinet/Committee for consideration;

  (b) A valid petition containing 501, or more signatures from Tendring residents or non-residents who can be clearly identified as either working or studying in Tendring, will be reported to Council to advise that the petition has been received. Once it has been investigated, a report will be prepared and presented with the petition at the next meeting of the Council for consideration. If it relates to a matter that is an Executive function under the law the petition will also be presented to the first practicable meeting of the Cabinet and any views, comments or recommendations made by Cabinet will be incorporated into the aforementioned report to Council.

  (c) The appropriate Ward Member(s) will be informed of receipt of a petition and any action to be taken.

  Note: Where the subject of a petition requires urgent action (i.e. it cannot wait until the following meeting of the Council) it is proposed that the petition be investigated and a report be presented to the first available meeting of the appropriate committee or Cabinet (if it relates to a matter that is an Executive function under the law).

  In the period immediately before an election or referendum the Council may need to deal with petitions differently. If this is the case, the Assistant Director Corporate Policy and

Support having consulted the Monitoring Officer, will explain, in writing, the reasons to the Lead Petitioner and inform them of the revised timescale that will apply.

- When a petition is being initially considered by a committee or the Cabinet (or Council, following investigation and a report being brought back), the lead petitioner will be invited to address the committee, Cabinet or Council as the case may be, outlining the reasons for the submission of the petition and what action they would like the Council to take. The lead petitioner (or his or her representative) will have a time limit of three minutes for their speech and the petition will then be discussed by Councillors. A Ward Councillor can, at the request of the lead petitioner, present the petition to the committee, Cabinet or Council, as the case may be, on their behalf and will have a time limit of three minutes for their speech.

- Where the lead petitioner requests a representative or a Ward Councillor to speak on their behalf, the lead petitioner must inform the Assistant Director Corporate Policy and Support (or the Democratic Services Manager) in writing or by email in advance of the relevant meeting of the name of that representative/Ward Councillor.

- Should two petitions be received on the same issue (including if one is in support and one opposing a course of action) then both lead petitioners will be invited to address Cabinet or Council at the same time.

- The relevant Ward Member(s), Cabinet Member(s) and officers will be informed when a valid petition covering their Wards and/or areas of responsibility is received and when and how the petition will be considered.

- The lead petitioner will be informed, in writing, of the committee's Cabinet's or Council's decision as the case may be and this information will also be published on the Council's website via the Minutes of the relevant meeting at which the petition was dealt with. If a further meeting is to be held to consider the issues raised in the petition, the lead petitioner will be supplied with the relevant details and will also be given the opportunity to attend and, if so requested by the chairman, address that meeting and/or answer any questions posed at the meeting.

- Relevant Officers will be required to attend any meeting to assist in the scrutiny and investigation of issues raised in the petition. As a general principle, the relevant Officers should be at a Head of Service level or above.

- Where possible, the consideration of a petition will be held in public but, in exceptional circumstances, it may be necessary for an issue to be considered as a "exempt" item under the Local Government Act 1972, the Access to Information Act 1985 and other relevant legislation. In such circumstances, the lead petitioner, public and press will be excluded from the meeting (or part of it) but the reasons for their exclusion will be clearly communicated to them and will also be included in the Minutes of that meeting.

3. What happens after a Petition has been considered?

There are several courses of action available to the committee, Cabinet or the Council (as appropriate) once a petition has been considered, including:

- No action (with reasons as to why no action is proposed)
- Taking the action requested in the petition
- Taking an alternative or amended course of action to that requested in the petition (with reasons as to why such action is being taken)
- Undertaking research into the matters raised (this could include referring the matter to the relevant Portfolio Holder, or officer of the Council) and holding a meeting with the petitioners.
- Referring the petition to a Committee or Cabinet or an external person/body (such as the County Council or Government body or Public Services or the Ombudsman or Member(s) of Parliament
- Holding a public meeting
- Holding an inquiry
- Providing a written response to the lead petitioner setting out the Council's views on the request in the petition
- Deferring consideration of the petition to a future committee, Cabinet or Council meeting
- Calling for a referendum (if permitted under the legislation and subject to costs)

TENDRING DISTRICT COUNCIL

MEMBERS' CODE OF CONDUCT

(Adopted by the Council on 22 November 2022
with a commencement date of 23 May 2023)

(Code as regards the conduct which is expected of all elected Councillors, voting co-opted members and appointed members)

Local Government Association
Model Councillor Code of Conduct 2020

JOINT STATEMENT

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

INTRODUCTION

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit- for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

DEFINITIONS

For the purposes 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 or sub-committee".

For the purposes of this Code of Conduct, "local authority" includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

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; all who 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.

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 the 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 I treat other councillors and members of the public with respect.

1.2 I 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 Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

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 and 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/it's 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.

6. Use of position

As a councillor:

6.1 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.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local 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.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

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

8.4 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

9. Interests

As a councillor:

9.1 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.

10. Gifts and hospitality

As a councillor:

10.1 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.

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

10.3 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 as 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 Registerable 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 as 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 Cabinet member 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 Registerable Interests

6. Where a matter arises at a meeting which ***directly relates*** to the financial interest or wellbeing of one of your Other Registrable Interests (as set out in **Table** 2), you must disclose the interest., 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-Registerable 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 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.

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, close associate; or

c. a financial interest or well-being of a body included under the 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 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.

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 Cabinet member 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.

Licenses	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	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (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 has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

* '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 Registerable Interests

You must register as an Other Registrable Interest; a) any unpaid directorship b) any body of which 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

The LGA has undertaken this review whilst 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 an allegation, 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.

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.

Approved 3rd 12.2020
Updated 19 January and 17 May 2021

TENDRING DISTRICT COUNCIL
COMPLAINTS PROCEDURE

1. Context

1.1 These "Arrangements" set out how you may make a complaint that an elected or co-opted member (with voting rights) of this Authority ("Tendring District Council" or a Town or Parish Council within its area (see 1.3 below)) has failed to comply with the Member Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the Member Code of Conduct.

1.2 Under ***Section 28(6) and (7) of the Localism Act 2011***, Tendring District Council must have in place "arrangements" under which allegations that a Member or co-opted Member of the Authority (*or of a* Town or Parish 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 Town and Parish Councils within the Tendring District are set out on the Council's website.

1.4 Such arrangements must provide for the District Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation against a Member, which it has decided shall be investigated, and whose views can be sought by the District Council at any other stage. The Council has adopted an Independent Person Protocol which sets out some general principles.

2. The Member Code of Conduct

2.1 The Council has adopted a Code of Conduct for Councillors, which is available on the website or on request from reception at the Council Offices.

2.2 Each Town or Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Town or Parish Council's Code of Conduct, you should visit the website operated by the Town or Parish Council or request the Town or Parish Council Clerk to allow you to inspect the Town or Parish Council's Code of Conduct.

3. Making a Complaint

3.1 If you wish to make a complaint, please write to or email:

The Monitoring Officer, Tendring District Council,
Corporate Services, Town Hall, Station Road,
Clacton-on-Sea, Essex CO15 1SE

standards@tendringdc.gov.uk

The Complaints Form can be downloaded from the website.

3.2 The Monitoring Officer is a senior officer of the authority who has a statutory responsibility for maintaining the Register of Members' Interests and who is responsible for administering the

system in respect of complaints of member misconduct. This information will be retained by the Council for a period of two years in accordance with its Retention and Destruction Policy. The Council has adopted a Monitoring Officer Protocol which sets out some general principles.

3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form which is available on request from the reception at the Council Offices or via the website. You must also include all relevant information relating to the complaint which you have to enable it to be fully considered.

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 name and address of a complainant will be provided to the member that is the subject of the complaint ("Subject Member"). In exceptional cases, we may agree to withhold your name and address from the Subject Member. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form along with the reasons why you feel it necessary for your name and address to be withheld. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the Subject Member against whom you make the complaint, without your prior consent.

3.4 The authority does not normally investigate anonymous complaints, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct and there is a clear public interest in doing so.

3.5 Following receipt of your complaint, the Monitoring Officer will:-

(a) acknowledge receipt of your complaint within 10 working days of receiving it;
(b) notify, within 10 working days, the member that is the subject of the complaint that you have made a complaint about them and provide them with the information set out on the complaint form; excluding any personal information but including your name and address, unless this is to be withheld in accordance with section 3.3 above;
(c) keep you and the Member that is the subject of the complaint informed of the progress of your complaint; and
(d) your complaint will be given a reference number which will appear on complaint documentation to preserve the privacy of the complainant and the subject Member until the complaint outcome is determined.

3.6 The Complaints Procedure Flowchart is set out at the end of this procedure for reference.

3.7 The Complaints Procedure follows the principles of natural justice and the presumption of innocence until proven otherwise. Any determination by the Standards Committee is on a balance of probabilities.

3.8 Both Parties are encouraged to keep the matter of the complaint confidential whilst it is progressing in accordance with this complaints procedure. The Monitoring Officer will also adhere to this confidentiality and only inform/contact any such individuals which are identified in the procedure or by the parties. If the details of the complaint are made public, it may be necessary for a statement to be issued by the Monitoring Officer for clarification only.

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 making a decision as to whether the complaint:

4.1.1 Merits no further action
4.1.2 Merits early informal resolution or mediation
4.1.3 Merits further investigation

4.2 In reaching a decision in respect of how to progress the complaint the Monitoring Officer will take account of 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?

4.3 The decision as to how the complaint is to be progressed will normally be taken within 15 working days of receipt of your complaint. Your complaint will be considered in accordance with the Assessment Criteria included at **Annex D (set out at the end of this procedure for reference).**

Where the Monitoring Officer has taken a decision, you will be informed of the decision and the reasons for that decision. The Monitoring Officer may require additional information in order to come to a decision, and may come back to you for such information. In the absence of a response from you within 15 working days the Monitoring Officer may close the complaint. Information may be requested from the Subject Member against whom your complaint is directed to enable the Monitoring Officer to take the decision. In the absence of the subject Member's response within 15 working days the Monitoring Officer may proceed with the complaint.

Where your complaint relates to a Town or Parish Councillor, the Monitoring Officer *may* also inform the Town or Parish Council of your complaint and seek the views of the Town or Parish Clerkl before deciding whether the complaint merits formal investigation.

Any failure to comply with the time scale by the Monitoring Officer or parties concerned will be notified to the Standards Committee or Sub-Committee together with reasons for the delay and the member subject of the complaint and the complainant will be kept informed of progress and reasons for the delay.

4.4 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally through informal resolution, without the need for a formal investigation. Such informal resolution may involve notifying the Group Leader and the Member accepting that his/her conduct was unacceptable and/or offering an apology, and/or agreeing to mediation and/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.

Where the Subject Member is the Group Leader, appropriate alternative arrangements will be required for informal resolution or mediation; this will be dependent upon whether the Group has allocated a Deputy to undertake this role, involve the Group Leader directly or an independent individual or suitable alternative, depending upon the circumstances.

4.5 If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the authority and obligation to notify or refer to the Police or other regulatory agencies, subject to the necessary Legal Jurisdiction Criteria Test being applied.

5. Referral to the Standards Committee or Sub-Committee and how is the Investigation conducted?

(The Committee and Sub-Committee Terms of Reference are included at **Annex C (set out at the end of this procedure for reference).**

5.1 The Council has adopted a procedure for the investigation of standards complaints a summary of which is attached as **Annex E (set out at the end of this procedure for reference).**

The Council has a Town and Parish Councils' Standards Sub-Committee which has responsibility for dealing with complaints regarding the actions of a Town or Parish Councillor, reference to the Sub-Committee throughout this procedure relates to the Town and Parish Council's Standards Sub-Committee.

5.2 If the Monitoring Officer decides that a complaint merits further investigation without referral to the Standards Committee or Sub-Committee, he/she will commission the investigation to be undertaken by a suitably qualified investigator with requisite experience and may include another officer of the Council, a senior officer of another authority or an appropriately experienced consultant, ensuring that independence and impartiality is maintained.

When deciding that a complaint merits further investigation, the Monitoring Officer may, in exceptional circumstances, refer the matter to the Council's Standards Committee or Sub-Committee, with a recommendation together with any information received from either the complainant or member who is the subject of the complaint. The Committee or Sub-Committee, upon consideration of this recommendation and information, may decide that the complaint merits no further action, conciliation or similar resolution.

5.3 While an investigation under the Localism Act 2011 is not covered by the right to a fair hearing under Article 6 of the European Convention on Human Rights as the outcome of any hearing will not impact upon the rights of the councillor to carry on the role as a councillor, any investigation must nevertheless abide by the principles of natural justice ***(R (Greenslade) v Devon County Council 2019).*** That means that the councillor must know what they are accused of and be given the opportunity to comment on the allegations.

The Investigating Officer or Monitoring Officer will decide whether he/she needs to meet you 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. Any information supplied to the Monitoring Officer or Investigating Officer can only be kept confidential within the remit of the investigation and therefore, may be shared with the parties. It is important to note that if a hearing is required at a later date, and the Standards
Committee is convened the information disclosed will be available to the public in accordance with the Access to Information legislation, which the Council has to abide by when conducting meetings.

5.4 As referred to in section 3.5, upon receipt of your complaint the member that is the subject of the complaint will ordinarily be informed that you have made a complaint about them and will be provided with details of the complaint. If an investigation is to be undertaken, the Investigating Officer or Monitoring Officer will normally write to the Subject Member against whom you have complained and provide him/her with full details of your complaint, (including your name and address but excluding any additional or sensitive personal information) and formally ask the Subject Member to provide his/her explanation of events, and to identify what documents they needs to see and who should be interviewed. In exceptional cases, where it is felt appropriate to continue to keep your identity confidential or where 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 providing full details of the complaint to the member until the investigation has progressed sufficiently.

5.5 At the end of his/her investigation, the Investigating Officer or Monitoring Officer will produce a draft report ("the Investigation Report") and will, in all cases, send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to identify any matters in that draft report which you disagree with or which you consider requires more consideration. At this stage, the Subject Member should clearly identify any matters of contention within the draft Investigation Report and for these to them be included within the final Investigation Report. Any highlighted matters of contention will in turn be made known to the Standards Committee, if (and only if) the matter is to proceed to a Standards Hearing, should the evidence as set out in the Investigation Report support a finding of failure to comply with the Code of Conduct and informal resolution is not appropriate (see section 7 below).

5.6 Having received and taken account of any comments which you, or the Subject Member may make on the draft Investigation Report, the report will be finalised. Where an Investigating Officer has been appointed the Investigating Officer will send his/her final report to the Monitoring Officer together with a conclusion as to whether the evidence supports a finding of failure to comply with the Code of Conduct.

5.7 It is important to highlight that the Investigation Report follows the format, or similar, as agreed with the Monitoring Officer, as set out in Annex E. The Investigation Report is the outcome of a thorough investigation, and should the matter proceed to a hearing, it is expected that no new information will be produced by the Parties or the Investigator. The Report must be clear to follow, and demonstrate the robustness of the investigation undertaken.

6. What happens if the Investigating Officer or Monitoring Officer concludes that there is <u>no evidence of a failure to comply</u> 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 may consult with the Independent Person(s). If he/she is satisfied that the Investigating Officer's report is sufficient, subject to 6.3 below, the Monitoring Officer will write to you and to the Subject Member *(and, if appropriate, to the Town or Parish Council, where your complaint relates to a Town or Parish 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. The Monitoring Officer will also notify the Standards Committee or Sub-Committee and the relevant Independent Person.

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.

6.3 The Monitoring Officer, may at their own discretion and only in exceptional cases, following consultation with the Chief Executive, decide to refer cases to the Committee for determination where the outcome of an investigation was to recommend no breach of the Code of Conduct

Exceptional cases may include but not be limited to matters where the evidence is so finely balanced or is in the public interest to do so.

7. What happens if the Investigating Officer or Monitoring Officer concludes that there <u>is evidence of a failure to comply</u> 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 refer the matter for a hearing before the Standards Committee or Sub-Committee or in consultation with one of the Independent Persons seek an informal resolution or mediation.

7.1.1 <u>Informal Resolution</u>

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 one of the Independent Persons and with you as complainant and seek to agree what you 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/or offering an apology, and/or mediation 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 or Sub-Committee (*and the Town or Parish Council)* for information, but will take no further action.

7.1.2 <u>Hearing</u>

If the Monitoring Officer considers that informal resolution is not appropriate, or the Councillor 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 Standards Committee or Sub-Committee which will 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.

To conduct a hearing, the Standards Committee must be formally convened and a Committee Agenda and Report is published and made available for public and press inspection, however, the Investigators Report will be kept confidential and will remain in Part B, until the day of the hearing to protect the parties.

Procedure following Investigation to referral for a Standards Committee hearing:

The Council has produced a summary of the procedure following investigation to referral for a Standards Committee hearing for ease of reference and is included as Annex F.

The hearing will follow the Council's formally adopted Hearing Procedure, as set out in Annex G and a copy of which will be provided in advance of the Standards Committee.

For reasons of fairness and proportionality a hearing should wherever possible take place within three months of the date on which the investigator's report was completed. Where that is not possible, for example because the matter is awaiting the outcome of other matters being dealt with by outside bodies or other investigations into the Subject Member, the Monitoring Officer should notify the relevant parties of the reason for the delay and provide an estimated timescale.

However, the hearing should not take place sooner than 14 days after the Investigation Report has been issued unless the Subject Member agrees. This is to allow them sufficient time to prepare their defence and consider any witnesses they may wish to call.

Notification of Hearing Date:

Once a date has been set for a Hearing the Monitoring Officer should notify:

(i) the Subject Member;

(ii) the Investigator;

(iii) the relevant Independent Person(s);

(iv) the Complainant (if appropriate);

(v) the Clerk of any relevant Town or Parish Council.

The Monitoring Officer should also outline the Hearing Procedure; the Subject Member's rights and additionally request for a written response from the Subject Member within a set time. This is to find out whether the Subject Member:

(a) intends to be represented at the hearing

(b) disagrees with any of the findings of fact in the Investigation Report, including reasons for any of these disagreements

(c) wishes to give evidence to the hearing, either verbally or in writing

(d) would like to call relevant witnesses to give evidence to the Standards Committee

Note - should the Subject Member wish witnesses to attend the Hearing, either in person or virtually, sufficient reasoning should be given as to why the evidence as set out in the Investigation Report needs to be demonstrated further. Witnesses may be called but clear, timely reasons should be given, and it should be noted that no cross-examination is permitted.

(e) request any part of the hearing to be held in private

(f) request any part of the Investigation Report or other relevant documents to be withheld from the public.

The investigator should also be asked if they wish to call any witnesses.

Availability:

If the Subject Member is unable to make the specified date the Standards Committee may arrange for the hearing to be held on a different date, if they are satisfied that the Subject Member has given an acceptable reason. Where the Subject Member does not give an acceptable reason or does not reply within a specified time, the Standards Committee should proceed with the date and may consider the report in the Subject Member's absence if the Subject Member does not go to the hearing. The Subject Member should not be able to evade having the case heard simply by refusing to cooperate and the Code of Conduct makes failure to cooperate a potential breach. However, the Standards Committee should make clear at the start of the hearing that they have considered whether they can proceed in the absence of the Subject Member and should record their reasons.

If one or more witnesses are unavailable on the given date the Monitoring Officer, in consultation with the Standards Committee chairman, should decide how the material they would bring to the hearing could be presented and whether another date needs to be looked for. Witnesses, especially members of the public, often play an important part in the process and should be treated with courtesy and respect although it may be that their views were already sought as part of the investigation so the Standards Committee would need to evaluate how they could proceed without them. Witnesses should be kept promptly informed of the relevant dates, times and location of the hearing.

Holding a pre-hearing

As soon as a date has been set for a hearing the Standards Committee should hold a private pre-hearing. The purpose of the pre-hearing process is to allow matters at the hearing to be dealt with more fairly and economically. This is because it quickly alerts parties to possible areas of difficulty and, if possible, allows them to be resolved before the hearing itself.

At the pre-hearing the Standards Committee should:

- Decide whether any of the findings of fact in the investigation report are in dispute and, if so, how relevant they are likely to be at the hearing. For example, if the dispute is about the time of a particular conversation but that time is not relevant to whether the Code has been breached or not, there would be little point focussing on that. On the other hand, if that alleged discrepancy were material the Standards Committee needs to satisfy itself how it would resolve that difference at the hearing.

- Consider any additional evidence it considers is required at the hearing.

- Identify any witnesses it thinks it would want to hear from.

- Decide if witnesses which the Subject Member or Investigator may want to call are relevant bearing in mind the nature of the issue and the need for proportionality. For example, if an incident has occurred at full council there would be no need to call every member as a witness but equally the Standards Committee may feel it needs to hear from a couple of witnesses representing different sides. Similarly, if the Subject Member decides to call a number of character witnesses the Standards Committee should take a view as to how relevant that is and how many would suffice.

- Consider whether there are any parts of the hearing that are likely to be held in private on the grounds that they contain 'exempt' material (see section on confidentiality below) though the final decision will rest with the Standards Committee on the day. The presumption should be to hold a public hearing unless there is specific exempt or confidential information as defined by Part VA of the Local Government Act 1972.

- Identify any potential conflicts of interest, for example any close associations with the people involved or potential witnesses. The Monitoring Officer will advise if any conflicts mean that a councillor should stand down from the Standards Committee.

It is important that at the pre-hearing Standards Committee members do not debate the merits of the case.

Note: the pre-hearing would not of itself be a formal meeting so would not be open and often these matters can be dealt with through correspondence. Once the pre-hearing has been held the Monitoring Officer should write to everyone involved in the complaint at least two weeks before the hearing. This should confirm the date, time and place for the hearing, note whether the Subject Member or Investigator will be represented at the hearing. It should also list those witnesses, if any, who will be asked to give evidence and outline the proposed procedure for the hearing.

Hearing:

Roles and Responsibilities at the Hearing:

Officer roles:

Monitoring Officer – commissioned the investigation and determined that a Standards Hearing was an appropriate course of action.

Investigator – presents the content and findings of their investigation report to the Committee

Deputy Monitoring Officer – provides procedural advice to the Standards Committee throughout the Standards Hearing (including within deliberations).

The Council's Legal Services are to be available to provide legal advice to the Standards Committee throughout the Hearing. Should a Subject Member wish to be legally represented at a Standards Committee Hearing, the Legal Advisor shall be seated with the Standards Committee in order to provide legal advice throughout the Hearing.

Committee's role:

The Standards Committee conducts a hearing in accordance with the formally adopted procedures, 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.

Subject Member and their representative:

Subject Member should answer questions posed to them by the Standards Committee; however, this cannot be forced upon them. If they do not wish to answer themselves, they may choose to do so through their representative. The Standards Committee will take into consideration the fact that the Subject Member would not directly answer any questions.

Hearing Procedure:

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 Standards Committee or Sub-Committee. The Subject Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Standards Committee or Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

At the conclusion of the presentation of the material from the Investigator and Subject Member, the Chairman of the Standards Committee should call a short adjournment in order for the Council's Independent Person to consider and prepare their view prior to presenting it to the Standards Committee. This period will also allow the Standards Committee a private recess in order to consult with the Council's Legal Advisor.

The Members of the Standards or Sub-Committee, after hearing all the evidence and information, and comments from the Independent Person, will adjourn the meeting and deliberate together in private. The hearing will then be reconvened and the Decision will be announced in public. It is expected that this will usually be on the same day.

The Standards Committee or Sub-Committee may conclude that the Member did not fail to comply with the Code of Conduct, and dismiss the complaint. If the decision is contrary to a recommendation from the Investigating Officer and/or Monitoring Officer, detailed reasons will be required to be published in the Decision Notice. The decision of the Standards Committee or Sub-Committee will also be reported to the next meeting of Full Council.

If the Standards Committee or Sub-Committee concludes that the Subject Member did fail to comply with the Code of Conduct, the Chairman will inform the Subject Member of this finding and the Committee or Sub-Committee will then consider what action, if any, the Committee or Sub-Committee should take as a result of the Subject Member's failure to comply with the Code of Conduct. In doing this, the Committee or Sub-Committee will give the Subject 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.

Due to the importance of consultation with the Council's Independent Person, they are entitled to request a short adjournment to consider and prepare their view prior to presenting it to the Standards Committee.

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

8.1 The Standards Committee or Sub-Committee has the power to take action in respect of individual Members as may be relevant and proportionate, and necessary to promote and maintain high standards of conduct. Accordingly the Standards Committee or Sub-Committee may:-

8.1.1 Publish its findings in respect of the Member's conduct on the Council's website;
8.1.2 Report its findings to Council *(or to the Town or Parish Council)* for information;
8.1.3 Recommend to the Member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committee) that he/she be removed from any or all Committees or Sub-Committees of the Council;
8.1.4 Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
8.1.5 Instruct the Monitoring Officer to *(or recommend that the Town or Parish Council)* arrange training for the member;
8.1.6 Recommend to the relevant Group Leader (or in the case of un-grouped members, recommend to Council or to Committee) that the Member be removed *(or recommend to the Town or Parish 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 Town or Parish Council)*;

8.1.7 Recommend to the relevant Group Leader (or in the case of un-grouped members, recommend to Council or to Committee) the withdrawal of *(or recommend to the Town or Parish Council that it withdraws)* facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or

8.1.8 Recommend to the relevant Group Leader (or in the case of un-grouped members, recommend to Council or Committee) the exclusion of *(or recommend that the Town or Parish Council exclude)* 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 In each circumstance, where the Subject Member is the Group Leader, appropriate alternative arrangements will be required, this will be dependent upon whether the Group has allocated a Deputy to undertake this role, involve the Group Leader directly or an independent individual or suitable alternative, depending upon the circumstances.

8.3 In each circumstance, where the Standards Committee or Sub-Committee recommend the Group Leaders take action, it is expected that the Group Leader will within 6 weeks of the referral to them, or as soon as reasonably practicable thereafter, submit a report back to the Standards Committee or Sub-Committee giving details of the action taken or proposed to comply with the Committee's direction.

8.4 The Standards Committee or Sub-Committee has no power to suspend or disqualify the Member or to withdraw Members' 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 Committee or Sub-Committee as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Committee or Sub-Committee resolves to take.

9.2 Within 5 days, the Monitoring Officer shall prepare a formal Decision Notice in consultation with the relevant Chairman of the Standards Committee or Sub-Committee, and send a copy to you and to the Member *(and to the Town or Parish Council if appropriate)*, make that Decision Notice available for public inspection and, report the decision to the next convenient meeting of the Council for information.

9.3 The Subject Member will be reminded that paragraph 8.4 of the Members' Code of Conduct states that they will comply with any sanction imposed on them following a finding that they had breached the Code of Conduct. Should the Subject Member fail to comply with any sanction, due to the existence of an ongoing breach, the matter will be reported back to the Standards Committee, to determine what action to take.

The Code expressly states "*It is extremely important for……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*".

9.4 Should a police investigation result in a Member being convicted of a criminal offence the Monitoring Officer in consultation with an Independent Person will determine whether it is in

the public interest for the matter to be reported to Council for information. In such circumstances the Group Leader will also be consulted and notified of the decision accordingly.

10. Who forms the Standard Committee or Sub-Committee?

10.1 The Standards Committee will comprise of 7 District Councillors;

10.2 The Standards Town and Parish Sub-Committee will comprise of 3 District Councillors and 3 Town and Parish Councillors (nominated by the Tendring District Association of Local Councils);

10.3 At least one of the two Independent Persons must have been consulted on their views and taken into consideration before the Standards Committee or 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 are the Independent Persons?

11.1 The Council has appointed two Independent Persons to support the Standards Committee and Sub-Committee.

11.2 An Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

11.3 Section 28 (8) of the Localism Act 2011 provides the definition and restriction of the Independent Person. The Council has adopted an Independent Person protocol which sets out some general principles.

12. Revision of these Arrangements

The Council may by resolution agree to amend these arrangements, upon the advice of the Monitoring Officer where it is necessary, fair, proportionate and expedient to do so.

13. Appeals

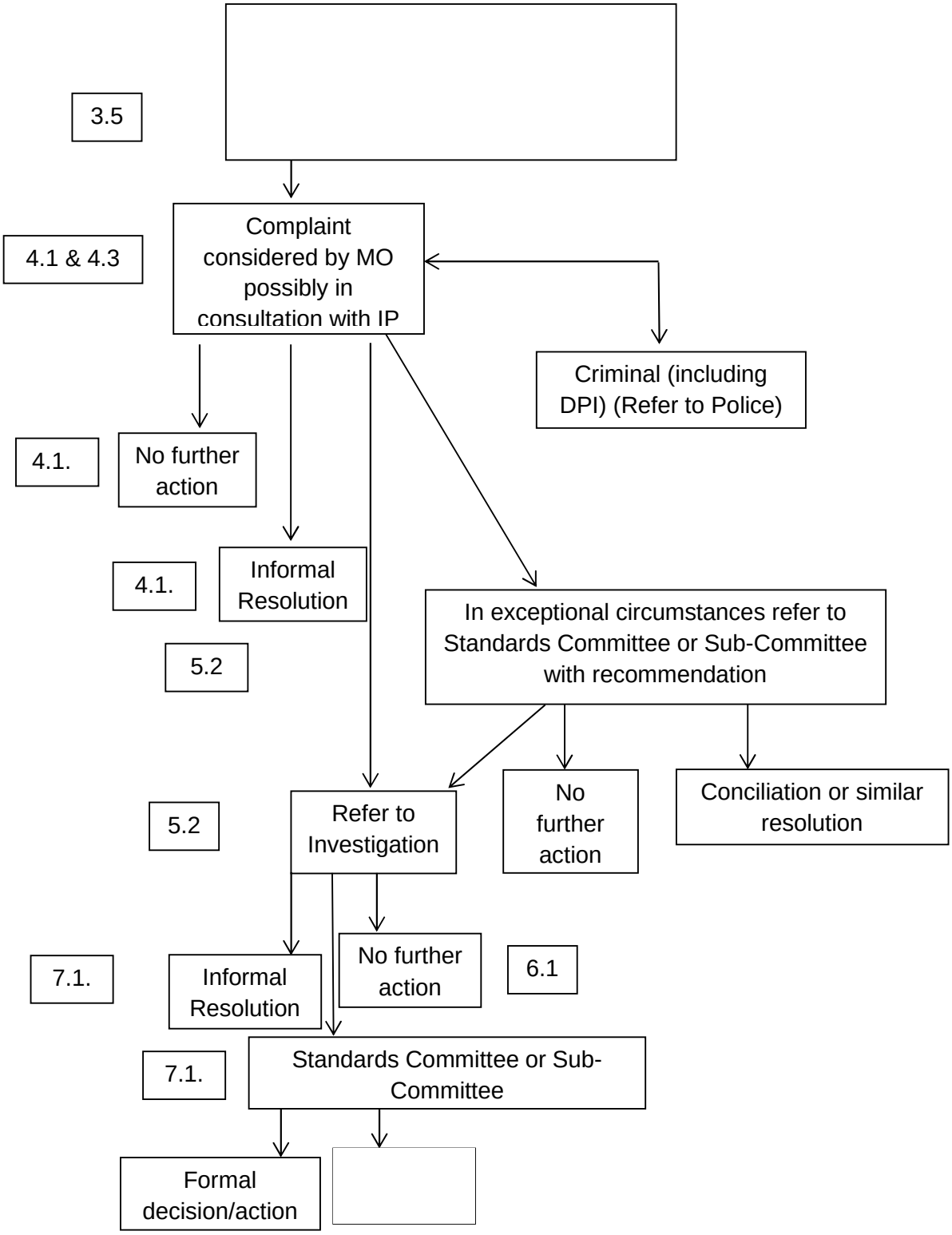
13.1 There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer or the Standards Committee.

13.2 If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government and Social Care Ombudsman.

ANNEX B

This Flowchart is to be read in conjunction with the Tendring District Council's Complaints Procedure

(Reference is made to the relevant paragraphs of the Procedure in the boxes on the left hand side)



(Grey)

ANNEX C – STANDARDS COMMITTEE AND TOWN AND PARISH COUNCILS' SUB-COMMITTEE TERMS OF REFERENCE

Committee	Functions and Terms of Reference	Delegated Functions
Standards Committee	1. To promote and maintain high standards of conduct by Members and Co-opted Members of the authority; 2. To develop a culture of openness, transparency, trust and confidence between Members and in Member and Officer relationships and to embed a culture of strong ethical and corporate governance at all levels of the Council; 3. To advise the Council on the adoption or revision of the Members' Code of Conduct; 4. To advise, train or arrange training on matters relating to and assisting Members, Co-opted Members and Town and Parish Councillors on observing the Members' Code of Conduct; 5. To approve procedures for the conduct of hearings into complaints against Members; 6. To advise the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council; 7. To receive reports from the Monitoring Officer and assess the operation and effectiveness of the Members' Code of Conduct and the other elements of the Standards Framework; 8. To inform Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints; 9. To hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to Section 33 of the Localism Act 2011; and 10. To maintain oversight of the Council's arrangements for dealing with complaints delegated to Standards Town and Parish Sub-Committee.	**Delegation to Monitoring Officer:** 1. Deal with complaints against Members and co-opted Members of the Council and/or any Town or Parish Council in the Tendring District alleging a breach of the Members' Code of Conduct of the Council/Town or Parish Council ("Code") in accordance with the Complaints Procedure. 2. Assess complaints in accordance with the Assessment Criteria and may consult with a duly appointed Independent Person and determine whether the complaint: • Merits no further action • Merits early informal conciliation • Merits further investigation • Should due to exceptional circumstances be referred to the Standards Committee or Sub-Committee for consideration for further investigation. 3. Determine the format of the Complaints Form, Decision Notices and Procedure Flowchart and review where necessary.

	Proceedings: 1. To conduct proceedings in accordance with the Complaints Procedure, giving due consideration to the Monitoring Officer's advice and guidance, and following the principles of natural justice and innocent until proven otherwise; 2. To receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the assessment criteria and Complaints Procedure; 3. To hear and determine complaints about Tendring District Council Members and Co-opted Members referred to it by the Monitoring Officer; and 4. Any determination by the Committee which is contrary to the recommendation of the Monitoring Officer will include detailed reasons. The decision of the Committee will also be reported to the next meeting of full Council.	4. Commission external resources to investigate, undertake consultation with an Independent Person and report on any complaints relating to Member conduct. 5. Grant dispensations in compliance with Section 33(a) to (e) of the Localism Act 2011. 6. Submit reports to the Standards Committee or Sub-Committee on the actions taken under these delegated powers and to provide advice and support making recommendations to the relevant Committee on any matters relating to the promotion and maintenance of high standards of conduct.
Committee	**Functions and Terms of Reference**	**Delegated Functions**
Town and Parish Councils' Standards Sub-Committee	To advise and assist Town and Parish Councils and Councillors to maintain high standards of conduct and to make recommendations to Parish and Town Councils on improving standards or actions following a finding of a failure by a Town or Parish Councillor to comply with its Code of Conduct. **Proceedings:** 1. To conduct proceedings in accordance with the Complaints Procedure, giving due consideration to the Monitoring Officer's advice and guidance, and following the principles of natural justice and innocent until proven otherwise; 2. To receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the assessment criteria and Complaints Procedure; 3. To hear and determine complaints about Town and Parish Council Members and Co-opted Members referred to it by the Monitoring Officer ; and;	**Delegation to Monitoring Officer:** 1. Deal with complaints against Members and co-opted Members of the Council and/or any Town or Parish Council in the Tendring District alleging a breach of the Members' Code of Conduct of the Council/Town or Parish Council ("Code") in accordance with the Complaints Procedure. 2. Assess complaints in accordance with the Assessment Criteria and may consult with a duly appointed Independent Person and determine whether

	4. Any determination by the Sub-Committee which is contrary to the recommendations of the Monitoring Officer will include detailed reasons. The decision of the Sub-Committee will also be reported to the next meeting of full Council.	the complaint: • Merits no further action • Merits early informal conciliation • Merits further investigation • Should due to exceptional circumstances be referred to the Standards Committee or Sub-Committee for consideration for further investigation. 3. Determine the format of the Complaints Form, Decision Notices and Procedure Flowchart and review where necessary. 4. Commission external resources to investigate, undertake consultation with an Independent Person and report on any complaints relating to Member Conduct. 5. Submit reports to the Standards Committee or Sub-Committee on the actions taken under these delegated powers and to provide advice and support making recommendations to the relevant Committee on any matters relating to the promotion and maintenance of high standards of conduct.

ANNEX D
CONDUCT COMPLAINTS ASSESSMENT CRITERIA

Complaints which would not normally be referred for investigation or to the Standards Committee or Sub-Committee

1. The complaint is not considered sufficiently serious to warrant investigation;
2. The complaint appears to be simply motivated by malice or is "tit-for-tat";
3. The complaint appears to be politically motivated;
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;
5. It is about someone who is no longer a Councillor;
6. There is insufficient information available;
7. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances, e.g. an allegation of bullying, harassment etc.
8. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out;
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 Committee;
10. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct; or
11. Where the member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

Complaint which may be referred for investigation and/or to the Standards Committee or Sub-Committee

1. It is serious enough, if proven, to justify the range of sanctions available to the Standards Committee or Sub-Committee; or
2. There are individual acts of minor misconduct which appear to be part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or
3. When the complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer and it would be difficult for the Monitoring Officer to consider; or
4. The complaint is about a high profile Member such as the Leader of the Council and it would be difficult for the Monitoring Officer to consider; or
5. Such other complaints as the Monitoring Officer considers it would not be appropriate for him/her to consider.

Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' time and Members' time. This is an important consideration where the complaint is relatively minor.

ANNEX E
STANDARDS COMPLAINTS INVESTIGATION PROCEDURE

Subject Members are reminded that they are required to co-operate with the investigation process as part of their compliance with the Code of Conduct and to ensure that the procedure is undertaken in an efficient and resourceful manner.

Any investigation should therefore bear in mind some Key Principles:

- **Proportionality.** That is, the investigation should strive to be proportionate to the seriousness or complexity of the matter under investigation. Where a matter is straightforward or relatively simple, for example where the facts are not in dispute, there may be no need for any formal investigation, but a report can simply be written up. Equally not all of the steps in this procedure need be followed in every instance of a formal investigation – a judgment must be made, in consultation with the Monitoring Officer, in each case based on its complexity and contentiousness.

- **Fairness.** The investigation should make sure that the Subject Member knows what they are accused of and has an opportunity to make comments on the investigation, including on a draft report. Again, this may depend on the nature of the complaint – for example, an alleged failure to declare an interest may be largely a factual matter which needs little or no investigation rather than one that needs to involve evidence from other parties. A councillor quickly admitting to an error may not need further detail to be probed.

- **Transparency.** As far as is practical and having regard to an individual's right to confidentiality, investigations should be carried out as transparently as possible – all parties should be kept up to date with progress in the case.

- **Impartiality.** An investigator should not approach an investigation with pre-conceived ideas and should avoid being involved where they have a conflict of interest.

1. Planning Stage:

Upon receipt of an instruction to carry out an investigation the Investigator should:-

- Acknowledge receipt of the instruction to conduct the investigation.
- Maintain a written record throughout the investigation.
- Assess whether any additional information is required from the complainant.
- Identify the paragraph(s) of the Members' Code of Conduct that are alleged to have been breached.
- Identify the facts which will need to be determined to establish if the Member has breached the Member Code of Conduct.
- Identify the evidence that is needed to determine the issues.
- Consider how to undertake the evidence gathering.
- Identify how long it is likely to take to conduct the investigation.
- Tendring District Council has imposed a 3 month deadline for an investigation to be completed; this may be reduced by the Monitoring Officer in each individual case. The

Investigating Officer must confirm that the deadline is achievable and regularly update the Monitoring Officer, subject member of the complainant and the complainant as to progress.

2. Evidence Gathering Stage:

- Contact the complainant to request any supporting or documentary evidence relating to the complaint.
- Contact the subject member with details of the complaint and seek an explanation.
- If new evidence is obtained through the investigation that the subject member has not been made aware of, this should be provided to the Councillor to respond to either orally or in writing.

3. Interview Stage:

- Identify witnesses.
- Arrange interview dates.
- Conduct interviews (preferably in order of: the complainant, witnesses and subject member and any of their witnesses).
- The Investigating Officer when interviewing the subject member must ask them to respond to each point of the complaint and alleged breach of the Code of Conduct.
- The Investigating Officer should make every effort to gather evidence from the Complainant and subject member by way of a face to face interview.

4. Report Stage:

Purpose of the report

The report should be treated as an explanation of all the essential elements of the case and a justification for why the Investigator has concluded there has been a breach or not.

The report should cover:

- agreed facts;
- any disputed facts together with the Investigator's view, if appropriate, as to which version is more likely;
- whether those facts amount to a breach of the code or not; and
- the reasons for reaching that conclusion.

The report must make one of the following findings on the balance of probabilities:

- that there have been one or more failures to comply with the Code of Conduct;
- that there has not been a failure to comply with the Code.

- Draft the report to contain:

  - o <u>An Executive Summary</u>:

The beginning of the Investigation Report should contain the salient points from the investigation, whether or not the Subject Member was acting in official capacity, identify what the alleged breaches of the Members' Code of Conduct are and whether on the balance of probabilities they have been breached, supporting evidence and the role of the Standards Committee in deciding whether there has been a breach.

- o The Interview Process

  Details of who was interviewed, who supplied information and whether through written documentation or verbally

- o Agreed facts;

- o Facts not agreed and matters in dispute;

- o Article 10, Freedom of Expression:

  Consideration given to be given as to whether relevant to the circumstances of the complaint;

- o Subject Member's length of service and Code of Conduct training

- o An assessment on each of the alleged breaches of the Code of Conduct

  (i) forming the complaint and
  (ii) those identified by the Monitoring Officer or Investigator;

- o Conclusions as to whether a breach has occurred;
- o Where a draft report is issued this will be supplied to both the Complainant and Subject Member for comment, in addition to the Monitoring Officer.
- o In all cases the Investigator will issue a final report and the Monitoring Officer will then determine appropriate action to be taken in line with the report conclusion.

ANNEX F

PROCESS SUMMARY & CHECKLIST

following an investigation being concluded to referral for a hearing, where evidence of a breach has been found

(reference paragraph 7.1.2 of the Complaints Procedure)

STEP	ACTION	TIMESCALE	COMPLETED
1.	**NOTIFICATION OF MATTER BEING REPORTED FOR A HEARING:** Parties to be notified by the Monitoring Officer that it is considered necessary in accordance with paragraph 7.1.2 to report the Investigation Report to the Standards Committee, which will conduct a hearing, before deciding whether the Subject Member has failed to comply with the Code of Conduct. Notice of the Standards Committee meeting date to be notified in due course.	Within 5 working days of the Investigators Final Report being received.	
2.	**SCHEDULE DATE FOR THE STANDARDS COMMITTEE** A hearing should wherever possible take place within three months of the date on which the investigator's report was completed. Schedule date of meeting seeking availability from the Committee Members, Independent Person and relevant Officers. If possible, to include the Subject Member, but not mandatory. Chairman of the Standards Committee to confirm the date, as per the Constitution.	Date to be scheduled within 2 weeks, but will be further in advance to allow next steps to proceed	

3.	**NOTIFY PARTIES** Once the date for the Standards Committee has been scheduled – Monitoring Officer to notify the following: • the Subject Member • the Investigator • the relevant Independent Person(s) • the Complainant (if appropriate) • the Clerk of any relevant Town or Parish Council. Provide a copy of the Council's formally adopted Hearing Procedure, as set out in Annex F. **Request the Investigator to confirm within set timescale whether they wish to call any witnesses.** **Refer the Subject Member to paragraph 7.1 Pre-Hearing Process and request the written response required in Step 4 below.**	Within 1 working day of date being agreed with the Chairman of the Standards Committee.	
4.	**REQUEST WRITTEN RESPONSE FROM SUBJECT MEMBER** The Subject Member to provide a written response within a set time. This is to find out whether the Subject Member: (i) will be represented at the hearing, if so, confirmation as to whether this is legal representation or general support. (ii) disagrees with any of the findings of fact in the Investigation Report, including reasons for any of these disagreements.	Response to be received with 5 working days.	

	(iii) intends to give evidence to the hearing, either verbally or in writing. (iv) wishes to call relevant witnesses (name and reason) to give evidence to the Standards Committee. <u>Note</u> - should the Subject Member wish witnesses to attend the Hearing, either in person or virtually, sufficient reasoning should be given as to why the evidence as set out in the Investigation Report needs to be demonstrated further. Witnesses may be called but clear, timely reasons should be given, and it should be noted that no cross-examination is permitted. (v) request any part of the hearing to be held in private (vi) wants to request any part of the Investigation Report or other relevant documents to be withheld from the public.		
5.	**AVAILABILTY** Respond in accordance with paragraph 7.1.2 of the Complaints Procedure if the Subject Member or witnesses are unable to make the specified date.		
6.	**SCHEDULE A PRE-HEARING BRIEFING** Send the Investigation Report and Draft Committee Report to the Standards Committee members to prepare for the pre-hearing step.	Following receipt of the written response from the Subject Member	

7.	**HOLD A PRE-HEARING FOR THE STANDARDS COMMITTEE MEMBERS TO:** (i) Decide whether any of the findings of fact in the investigation report are in dispute. (ii) If so, how relevant they are likely to be at the hearing. (iii) Consider any additional evidence it considers is required at the hearing. (iv) Identify any witnesses it thinks it would want to hear from. (v) Decide if witnesses which the Subject Member or Investigator may want to call are relevant bearing in mind the nature of the issue and the need for proportionality. (vi) Consider, on the advice of the appropriate officer, whether there are any parts of the hearing that are likely to be held in private on the grounds that they contain 'exempt' material though the final decision will rest with the Standards Committee on the day. (vii) Identify any potential conflicts of interest, for example any close associations with the people involved or potential witnesses. (vii) To include a Briefing on the Hearing Procedures.	3 weeks before the Scheduled Standards Committee meeting to allow the next step to be progressed.	

8.	**PRE-HEARING ACTIONS** Once the pre-hearing has been held the Monitoring Officer should write to everyone involved in the complaint. To confirm: (i) The date, time and place for the hearing (ii) Whether the Subject Member or Investigator will be represented at the hearing (iii) Those witnesses, if any, who will be asked to give evidence and outline the proposed procedure for the hearing.	At least two weeks before the hearing.	
9.	**PUBLISH THE STANDARDS COMMITTEE AGENDA** **Part A Report** **Part B Report (include the Investigators Report)**	At least 5 clear working days before the meeting.	

ANNEX G

HEARING PROCEDURE
(revised and approved April 2024)

STANDARDS COMMITTEE &
TOWN & PARISH COUNCILS' STANDARDS SUB-COMMITTEE

This procedure supplements Section 7.1.2 of the Council's Complaints Procedure and a copy will be provided to the both the Complainant and the Member the subject of the Complaint ("Councillor").

All Hearings will be held in Public unless the relevant paragraph of Schedule 12A of the Local Government Act 1972 applies, however the public interest test must be considered and therefore it would only be in exceptional circumstances that the hearing will be held in Private. The Council's Monitoring Officer will provide the relevant advice.

Where District Councillors were required to make a decision in respect of a hearing, they have due regard to, and take into account any views expressed by Town and Parish Councillors in reaching their decision.

Item No.	Procedure
1	**Quorum** 1.1. Three Members must be present throughout the hearing to form a quorum. 1.2. Where the complaint refers to a Town or Parish Councillor a non-voting Town and Parish representative of the Town and Parish Councils' Standards Sub-Committee must be present. 1.3. The Committee or Sub-Committee shall nominate the Chairman for the meeting in accordance with the terms of reference of the relevant Committee.

2	**Opening** 2.1 The Chairman explains that: (i) The hearing has been convened in accordance with the Council's Complaints Procedure and that an investigation has been conducted, the outcome of which is that it is considered there is evidence of a failure to comply with the Members' Code of Conduct. (ii) The Parties have been aware of the content of the Investigator's Report and this has been circulated to all Members of the Committee. (iii) The Monitoring Officer has referred the matter for a hearing either because upon conclusion of the investigation, informal resolution has not been successful or it is not appropriate to do so, for the reasons given within the Committee Report. (iv) Purpose of the Hearing is to consider the Investigators Report, the evidence in support and representations from the Parties. The process of the hearing is inquisitorial, and not adversarial. Any witnesses in attendance should not be made to feel uncomfortable or that their integrity is being questioned. The purpose of the hearing is to establish the facts. Cross-examination of the Investigating Officer, the Councillor and witnesses is not permitted, all questions should be made through the Chair. (v) Evidence before the Committee may be given orally or by written statement. At any stage during the proceedings the Committee can request the attendance, in person or joining remotely, of any person making a written statement or any other person they consider will be able to assist them, but the Committee has no power to require the attendance of any person. (vi) The Standards Committee will make its decision on the balance of probability, based on the evidence before it during the hearing. (vii) If the Committee or Sub-Committee depart from the recommendation from either the Investigating Officer and/or Monitoring Officer detailed reasons are required and published in the Decision Notice. 2.2 The Chairman asks all present to introduce themselves.

3	**<u>The Complaint</u>** 3.1 The Investigating Officer or Monitoring Officer shall be invited to present their report including: (i) any documentary evidence or other material; (ii) call such witnesses as considered necessary; and (iii) make representations to substantiate the conclusion that the Councillor has failed to comply with the Code of Conduct This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed. It is only under 3.1 (ii) that the Complainant will take part in the hearing. 3.2 The Councillor (or their representative) may question: (i) the Investigating Officer upon the content of their report and/or; (ii) any witnesses called by the Investigating Officer. This is the Councillor's opportunity to ask questions rising from the Investigators report and not to make a statement. 3.3 Members of the Committee or Sub-Committee may question: (i) the Investigating Officer upon the content of their report and/or (ii) any witnesses called by the Investigating Officer. This is the Committee or Sub-Committees' opportunity to ask questions rising from the Investigators report and not to make statements.

4	**The Councillor's Case** 4.1 The Councillor (or their representative) may: (i) present their case; (ii) call any witnesses as required by the Councillor or their representative and (iii) make representations as why they consider that they did not fail to comply with the Code of Conduct. 4.2 The Investigating Officer may question the Councillor and/or any witnesses. 4.3 Members of the Committee or Sub-Committee may question the Member and/or any witnesses. In all instances, only questions will be permitted relating to the allegation and the Councillor's case and no statements should be made.
5	**Summing Up** 5.1 The Investigating Officer may sum up the Complaint. 5.2 The Councillor (or their representative) may sum up their case.
6	**Decision** 6.1 Members of the Committee or Sub-Committee will deliberate in private to consider the complaint (if required, in consultation (*) with the Independent Person) prior to reaching a decision. (*) Note any consultation with the Independent Person must be undertaken in

	the open session so all parties can hear their views. 6.2 Upon the Committee or Sub-Committee's return the Chairman will announce the Committee or Sub-Committee's decision in the following terms:- (i) The Councillor has failed to comply with the Code of Conduct; or (ii) The Councillor has not failed to comply with the Code of Conduct The Committee or Sub-Committee will give detailed reasons for their decision, which will be included within the published Decision Notice. 6.3 If the Committee or Sub-Committee decides that the Councillor has failed to comply with the Code of Conduct they will then consider any representations from the Investigator and/or the Councillor as to: (i) The appropriate sanction, as set out in Section 8 of the Complaints Procedure. (ii) Based on relevance to the breach, being proportionate and necessary to promote and maintain high standards of conduct. 6.4 The Committee or Sub-Committee is required by law to do so in consultation (*) with the Independent Person. (*) Note any consultation with the Independent Person must be undertaken in the open session so all parties can hear their views. 6.5 The Committee or Sub-Committee will then deliberate in private to consider what action, if any, should be taken. 6.6 On the Committee or Sub-Committee's return the Chairman will announce the Committee or Sub-Committee's decision as to what actions they resolve to take (in relation to a Town or Parish Councillor a recommendation to their Council). 6.7 The Committee or Sub-Committee will consider whether it should make any specific recommendations to the Council or in relation to a Town or Parish Councillor to their Council with a view to promoting and maintaining high standards of conduct among Members. 6.8 The Chairman will confirm that a full written Decision Notice shall be issued within 7 working days following the hearing and that the Committee or Sub-Committee's findings will be published on the Council's website and reported to the next full Council.

TENDRING DISTRICT COUNCIL
MONITORING OFFICER PROTOCOL

This Protocol relates to the discharge of the Monitoring Officer functions in relation to the assessment of an allegation that a Member of the District, Town or Parish Council has failed to comply with the Council's Members' Code of Conduct.

1. Overarching Principles:

(a) The Monitoring Officer is a statutory appointment under s.5 of the Local Government and Housing Act 1989.

(b) This Protocol has been produced in light of the provisions of the Localism Act 2011 and associated regulations and will be kept under review and amended where necessary.

(c) The Monitoring Officer will discharge their statutory responsibilities with a positive determination contributing to promotion and maintenance of high standards of conduct, in a manner that enhances the overall reputation of the Council, in particular:

Complying with the law (including any relevant Codes of Conduct);
Complying with any general Guidance issued including consideration of Best Practice;
Complying with the procedures adopted by the Standards Committee following such guidance;
Complying with the Council's Constitution and standing orders; and
Acting impartially in the interests of fair and natural justice.

(d) The Monitoring Officer must establish and maintain a Register of Interests of Members and co-opted Members of the Authority.

(e) The Monitoring Officer is employed by Tendring District Council and owes their primary responsibility to the Authority rather than to any individual Member or group of Members. Accordingly, when they are of the opinion that providing advice to a Member or group of Members on a matter is incompatible with their role as adviser to the Authority, or any action which they may have to take on behalf of the Authority, they may decline to provide such advice, but may at their discretion, secure that such advice is provided from an independent source at the expense of the Authority.

(f) Where the advice or recommendation of the Monitoring Officer is departed from by the Standards Committee or Sub-Committee, in accordance with administrative law, full reasons will be provided by the relevant Committee in making its decision.

(g) This Protocol operates in conjunction with the terms of reference of the Standards Committee, Sub-Committee, the Complaints Procedure and Independent Person's Protocol.

(h) The Monitoring Officer is the principal adviser to the Standards Committee and Sub-Committee. Additional advice and support is provided by Officers within the Legal and Democratic Services teams.

(i) The Monitoring Officer is not the legal adviser for or to Town and Parish Councils and the role only extends in relation to the promotion and maintenance of high standards of conduct at these Authorities.

(j) The Monitoring Officer will act on complaints received and throughout the process in accordance with the Complaints Procedure. Under Section 4.1 of that Procedure the Monitoring Officer will review every complaint received and, before taking a decision, may consult with one of the Independent Persons as to whether the complaint:

(i) Merits no further action;
(ii) Merits early formal resolution or mediation; or
(iii) Merits further investigation.

A formal Decision Notice of that decision will be prepared and circulated to the interested parties.

There is no right of appeal for the complainant or for the Member against a decision of the Monitoring Officer or the Standards Committee though a complaint can be made to the Local Government and Social Care Ombudsman.

(k) In circumstances where either the Monitoring Officer or one of the Officers has made a complaint, witnessed the breach or previously assisted with the complaint, internal procedures will be implemented to ensure a conflict of interest does not exist. These procedures will consist of maintaining an information barrier and restricted access to the matter in consideration; this is referred to as “conflicted out”.

In practical terms, in these circumstances, the Monitoring Officer or Officer will take no part in the process unless called upon either as the complainant or as a witness.

(l) In instances (exceptional circumstances) where the Monitoring Officer decides to refer a complaint to the Standards Committee or Sub-Committee for initial assessment or further investigation, in accordance with the Complaints Procedure (see flowchart), any approved information as is readily available, which would assist the Standards Committee or Sub-Committee in its function of considering the allegation will be attached to their Report.

(m) In providing information, in any manner at any stage in the process, the Monitoring Officer must satisfy that they have the legal power to do so and the requirements of the Data Protection Act 2018, the UK General Data Protection Regulation (GDPR) and Freedom of Information Act 2000 have been considered, as reflected in the Council’s Constitution.

(n) It is recognised that, where a complaint is referred for investigation, this may not be personally conducted by the Monitoring Officer. The investigator instructed will be suitably qualified with the requisite experience and may include another senior officer of the Council, a senior officer of another Authority or an appropriately experienced consultant, ensuring that independence and impartiality is maintained. Wherever

possible and if appropriate to do so, the Monitoring Officer will seek external resources from outside of the County of Essex.

2. Receipt of Allegations:

(a) If the allegation or complaint does not refer to the Code of Conduct the matter will not be considered under the Localism Act or associated specific Complaints Procedure. The Monitoring Officer will treat this as a general complaint and forward it to be dealt with under the Council's general formal complaints process, as appropriate.

(b) The Monitoring Officer will keep the complaint file and associated papers in accordance with the Retention and Destruction Policy.

3. Consultation with the Independent Persons:

(a) The Monitoring Officer and supporting Officers will facilitate the contact with Independent Persons for the purposes of discussions with the Member subject of the complaint, the Complainant and the Monitoring Officer. Direct contact without the Monitoring Officer's knowledge is not permitted and the Monitoring Officer should be notified immediately by the Independent Person if direct contact is attempted by the parties.

(b) The Monitoring Officer will allocate roles for the Independent Persons in accordance with their Protocol and each party will be notified who the relevant Independent Person is and that they will be in contact shortly.

(c) The Monitoring Officer does not have to agree with the Independent Person but if a different view is taken the Monitoring Officer will consult with another Independent Person in the first instance, before making a final decision.

4. Standards Committee and Sub-Committee:

(a) The Monitoring Officer, in consultation with the relevant Chairman of the Standards Committee or Sub-Committee will decide on the type of attendance permitted for an Independent Person when considering complaints.

(b) All meetings of the Standards Committee or Sub-Committee are considered to be open to the public and press unless (c) and (d) below apply.

(c) The Monitoring Officer will advise the Standards Committee or Sub-Committee when to go into private session and exclude public access to the meeting in accordance with the Access to Information Procedure Rules, as set out in the Council's Constitution.

(d) In accordance with Access to Information Procedure Rules, if the Monitoring Officer or Deputy Monitoring Officer, in the Monitoring Officer's absence, considers it appropriate, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with the meeting at which those reports are to be discussed 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.

(e) Any decision departing from the Monitoring Officer's recommendation or advice will be supported with full reasons and recorded within the public part of the minutes for the meeting.

TENDRING DISTRICT COUNCIL
INDEPENDENT PERSON PROTOCOL

This Protocol sets out the expected conduct of Tendring District Council's Independent Persons (IP) when carrying out their consultation functions in relation to an allegation that a Member, or co-opted Member, of the District Council, or a Member, or co-opted Member, of a Town or Parish Council within the District, has failed to comply with the relevant Council's Code of Conduct.

Principles

1. The role of the IP is set down in legislation (section 28 of the Localism Act 2011). *Arrangements put in place by the Council must include provision for the appointment by the authority of at least one independent person, whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and in any other such circumstances it considers appropriate.*

2. The purpose of the IP role is to enable the public to have confidence in how the District Council deals with allegations of misconduct and to promote and maintain high ethical standards of conduct for members, ensuring they are adequately trained and understand the Code of Conduct.

3. This Protocol applies to all IPs equally and complements the Monitoring Officer Protocol. If the Council is in a position where less than two IPs are appointed due to a vacancy, this Protocol still applies in its entirety, so long as one IP is in place (as required by the legislation)

4. The Protocol has been prepared in light of the provisions of the Localism Act 2011 and associated regulations and will be kept under review and amended where necessary.

5. In carrying out the role, the IP will ensure that they:

    (a) Act in accordance with –

        (i) any relevant legislation or guidance and the respective Council's Members' Code of Conduct in force at that time; and

        (ii) the agreed processes/procedures approved by the District Council's Standards Committee and Constitution;

    (b) Act impartially at all times, without political bias or prejudice and in accordance with the rules of natural justice;

    (c) Maintain confidentiality at all times; and

    (d) Conduct themselves in accordance with the principles of high standards of conduct expected when acting in public life.

6. The IP role is consultative at various stages of the process, in accordance with the Complaints Procedure and the Monitoring Officer's (MO) role is to give advice to the Standards Committee or Sub-Committee.

7. The IP is not a member of the Council's Standards Committee or Sub-Committee but is able to attend meetings of the Committee, as a member of the public. The Committee or Sub-Committee may invite comments from the IP on any reports before them, at the discretion of the Chairman.

8. If the Standards Committee or Sub-Committee invites the IP to attend any meeting, the IP does not have any voting rights when doing so.

9. The outcome of any prior consultation with the IP undertaken by the MO will be included within any written report presented to the Standards Committee or Sub-Committee for their consideration. The IP's views must be sought before a decision is made after a complaint has been investigated. This will be undertaken by the MO in the first instance, but in some circumstances, it may be appropriate for the Committee or Sub-Committee to do this directly.

10. Whilst conducting hearings, if the Standards Committee or Sub-Committee meetings are adjourned for members' deliberations, an IP may be invited into these deliberations and invited to comment.

11. The MO will consult the IP on complaints received in accordance with the Council's procedure and requests for dispensations received in accordance with the Localism Act 2011.

12. Whilst the MO will have regard to the views expressed by the IP, they are not bound to accept their views on the matter.

13. When deciding on how to progress with a complaint, the MO and IP should consider the conduct complaints assessment criteria contained within the procedure.

14. The IP should inform the MO if they feel there are circumstances which would suggest that they had a conflict of interest e.g. being a friend of either the complainant or Member concerned; or have previously been involved with the matter.

15. If both of the IPs are conflicted out from dealing with the issue, the MO will consider making a request to use the services of an IP from another principal authority.

16. All contact with the IP should be made through the MO and should the IP be contacted directly by a complainant or Member, they should inform the MO immediately.

17. In terms of confidentiality, the IP must not discuss any matters about a complaint, either past or present, with the media or any other third party without appropriate advice having been taken.

18. The IP must provide the MO with appropriate methods of contact e.g. email and telephone numbers, and must make themselves available at all reasonable times.

19. On those occasions when the IP knows that they will not be contactable, they must inform the MO with as much reasonable notice as possible.

20. The IP should be prepared to give the Standards Committee or Sub-Committee, through the written report, an independent view on the complaint and the merit of the evidence put forward as required to assist the Committee in coming to a decision on the matter.

21. When discussing the complaint with the complainant or the Member subject of the complaint, the IPs role is not to give views on the merits of the complaint or the evidence in support but to give advice and reassurance on the process.

22. In each complaint, when necessary;

    (a) one IP will be selected by the MO for initial consultation and if required, available to the Standards Committee or Sub-Committee for consultation as part of the Complaints Procedure and in accordance with the Localism Act 2011; and

    (b) if requested by a party, the other IP will be made available to the Complainant or to the Member subject of the complaint – see paragraph 20 above.

23. The MO will allocate the roles between the IPs on a case by case basis. Should less than 2 IPs be appointed at any time, so long as 1 IP is in place the IP will be expected to be available for the respective parties set out in 22 (a & b).

24. The MO will ensure that the IPs are kept up to date with changes in legislation, national guidance or good practice.

25. The MO will update the IPs on progress of the cases on a bi-monthly basis.

PROTOCOL ON MEMBER & OFFICER RELATIONS

INTRODUCTION:

The success of the Council is greatly dependent upon the positive nature of the working relationship between Members and Officers. Mutual trust and respect between both Members and Officers is essential to good local government.

The purpose of this protocol is to provide a guide to good working relationships between Members and Officers, defining their respective roles and outlining the principles that underpin their relationship.

The protocol also builds on the respective Codes of Conduct for both Members and Officers and through this promotes the maintenance of integrity, both real and perceived, of the Council as well as very high standards of personal conduct.

1. THE ROLES OF MEMBERS AND OFFICERS:

1.1 In fulfilling their roles, the elected Members and Officers are both jointly responsible for:

(a) acting honestly, with integrity and in the public interest; and

(b) open and transparent objective decision making;

1.2 In addition, as set out in Article 2 of the Council's Constitution, the elected Members' role is to:

(a) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;

(b) Represent their communities and bring their views into the Council's decision-making process, i.e. become an advocate for their communities;

(c) Effectively represent the interests of their ward and of individual residents;

(d) Respond to residents' enquiries and representations, fairly and impartially and assist in the resolution of concerns and grievances;

(e) Be involved in decision-making for the people of the District as a whole;

(f) Be available to represent the Council on other bodies; and

(g) Contribute to the governance and effective management of the Council's business at meetings of the Council, Cabinet and other Committees and Sub-Committees, maintaining the highest standards of conduct and ethics.

1.3 In addition, the Officers are responsible for:

(a) providing professional and technical advice that Members must have before them when formulating policy and when taking decisions;

(b) lawfully implementing Members' decisions;

(c) day-to-day administration, including staffing matters;

(d) taking managerial and operational decisions in accordance with the Council's Scheme of Delegation;

(e) the provision of information regarding Council services; and

(f) undertaking public consultation.

2. WORKING RELATIONSHIPS – UNDERPINNING PRINCIPLES:

To be followed by both Members and Officers in fulfilling their duties:

- Mutual respect and courtesy between Officers and Members;
- An awareness of each other's responsibilities and duties;
- No inappropriate criticism, intimidating behaviour or the creation of a threatening work environment of any kind from either Members or Officers;
- Any appropriate challenges are to be conducted in a professional and respectful manner;
- Equal treatment, regardless of personal or political opinion (actual or perceived);
- An adherence to the law and the lawful instructions and advice of others; and
- An avoidance of close personal familiarity.

The above principles are designed to foster the good working relationships between Officers and Members that are essential to effective decision making and the delivery of services.

Alleged breaches of the Members' Code of Conduct are dealt with through the Council's Standards Committee and in relation to the Officer Code, by the Head of Paid Service, in accordance with the Council's Human Resources Policies and Procedures.

If an Officer is concerned about the conduct of a Member, they should report this to their senior manager, who will notify both the Head of Paid Service and the Monitoring Officer. These concerns could include public criticism of an Officer by a Member or unreasonable, frivolous or vexatious requests for information.

3. OFFICER APPOINTMENTS, PERFORMANCE AND POLITICAL NEUTRALITY:

3.1 The appointment of the Chief Executive (Head of Paid Service), the Monitoring Officer, the Chief Financial Officer, the Corporate Directors, Assistant Directors and Heads of Service will be made in accordance with the Officer Employment Procedure Rules. All other appointments are made at the appropriate Officer level.

3.2 The **Main Functions and Areas of Responsibility of Officers** are set out in Article 12 of the Council's Constitution. The position of the Chief Executive (Head of Paid Service) is to have overall corporate management and operational responsibility (including overall management responsibility for all officers).

3.3 Staffing matters (including discipline, training, setting and monitoring targets) are dealt with by the relevant managers, although the relevant Portfolio Holders/Cabinet Members will agree to targets in the case of the Chief Executive. All other targets are set at Officer level.

3.4 Members wishing to comment on an individual Officer's performance and/or deficiencies are usually expected to raise the matter with the relevant Corporate Director in the first instance. Thereafter to the Chief Executive if unresolved.

3.5 Officers are politically neutral, serve the whole Council and must avoid being identified with any political group. In order to safeguard this neutrality, Officers must avoid involvement in party political matters, such as campaigns in the political arena. This assumes particular significance in the run up to Elections. In their lives outside work, all politically restricted posts, which includes the Chief Executive, the Corporate Directors, Assistant Directors and many Senior Officers are prevented from active political involvement.

3.6 OFFICER ATTENDANCE AND ADVICE TO PARTY GROUPS

3.6.1 The political parties represented on the Council hold regular group meetings. Officers do not usually advise at these meetings, but may be invited to give information. All invitations should be routed through the Chief Executive.

3.6.2 There is 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 items being considered by the relevant Council decision-making body. The support provided by Officers can take many forms, ranging from a briefing meeting with a Cabinet Member, Chairman or spokesperson (either jointly or individually) prior to a meeting, to a presentation to a full party group meeting. Whilst in practice such Officer support is likely to be most in demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.

3.6.3 The parameters for support to party groups and individuals must be clearly understood, and to assist in this the following applies:-

(i) The Chief Executive will inform all party groups of the facility for an Officer to attend a party group meeting for a specific purpose and will decide, on request, which Officer may attend.

(ii) Support must not extend beyond providing information and advice in relation to Council business. Officers must not be involved in advising on matters of party business and should not, therefore, be present at group meetings when such matters are being discussed.

(iii) Party group meetings are not empowered to make decisions on behalf of the Council and therefore any conclusions reached at group meetings do not rank as a Council decision and cannot be interpreted or acted upon as such.

(iv) Advice provided to party groups on an issue does not act as a substitute for providing all the necessary information and advice to Members at meetings when that issue is being considered.

(v) The attendance of Officers at a party group meeting does not confer any official standing to that meeting.

(vi) Special care will be exercised when non-Members are in attendance at a group meeting.

(vii) The provisions of the Code of Conduct do not apply to non-Members and therefore the nature of advice, guidance and information given by Officers may not be the same as that given to a Members-only meeting.

(viii) Officers must respect the confidentiality of discussions at party group meetings and must not relay the content of these discussions to any other party group.

4. DECISION MAKING – PROVIDING AND CONSIDERING ADVICE

4.1 Decision-making by local authorities is closely regulated by law. The taking of a decision by the wrong person/body or in the wrong way can invalidate the decision from the beginning or leave it vulnerable to being challenged and overturned by a court.

4.2 In the event of challenge, attention may also be focussed on the information, professional advice and options made available to the decision-making body or individual prior to that decision being made. Reports and/or other papers placed before decision-making bodies or individuals must therefore contain the relevant facts, correct and complete professional advice and alternative options that may be open to the Council. Officers have the duty to ensure that all of the information on an issue for decision by Members is available, subject to the provisions in this protocol and the Constitution on access to information.

4.3 The Officers are responsible for providing those reports and/or papers, and the Monitoring Officer and Chief Financial Officer are required to ensure that their proper advice is placed before decision-makers.

4.4 Officers preparing reports for consideration by Council or its Committees do so in the best interests of the Council and not to promote the viewpoint of a particular Member or group of Members.

4.5 Reports to Cabinet are drafted by Officers but submitted in the name of the relevant Cabinet Member and will be prepared with their input. Members must recognise that Officers drafting reports on behalf of the Cabinet, delivering the administration's policies, must include all the relevant information, various options and highlighting financial considerations and legal powers, ensuring informed decisions are made, as a whole through the Head of Paid Service.

4.6 Officers have a duty to give advice to the Council and its Members using their professional technical knowledge and experience. This will be provided within the report and/or papers and at the meeting, if required.

4.7 Members are entitled to expect Officer attendance at meetings at an appropriate level of expertise to ensure adequate knowledge and advice on the subject matter under discussion. Officers in attendance at meetings will always be fully briefed as far as is practical on the issues under discussion on an Agenda.

4.8 Such advice is given in good faith and will be in line with and reflect legislation, good practice, Council procedures, experience, professional and technical knowledge, and the Council's formally adopted policies.

4.9 Members are entitled to expect clear, concise and unambiguous information from Officers at all times to assist them in the decision making process. An Officer's advice must be given in accordance with the Council's instructions through the decision making and review process set out in the Council's Constitution and should be taken into account by Members when considering an action or making a decision.

4.10 Officers are also expected to faithfully and conscientiously implement the lawful decisions of Councillors and properly take decisions delegated to them.

4.11 Officers and Members must ensure that the Council's responsibilities regarding notification of and publication of decisions are complied with, as set out in the Access to Information Rules of Procedure in Part 5 of the Council's Constitution.

4.12 In addition to legal challenges and implications, failure to follow the decision making principles may amount to breaches of both the Members' and Officers' Code of Conduct and lead respectively to action under the Standards Framework or to disciplinary proceedings.

5. ACCESS TO INFORMATION

5.1 Both Members and Officers must adhere to the Access to Information provisions concerning all information, including confidential information set out in Part 5 of the Council's Constitution.

5.2 Disclosure of confidential information by either a Member or Officer will constitute a breach of their relevant Code of Conduct and the appropriate action will be taken. In addition, the Council could be exposed to a damages or compensation claim as a result of the disclosure.

5.3 Members are entitled to receive information from Officers in a timely manner to reasonable requests for the purposes of undertaking their role as Ward Councillors, decision makers and performing functions, such as overview and scrutiny **(*this is referred to as the common law 'need to know' principle*).** Under common law principles councillors have the right to access information held by their authority where it is reasonably necessary to enable the Member to properly perform their duties as a councillor.

However, if the Member's motive for seeing documents is indirect, improper or ulterior this may be raised as a bar to their entitlement. Members are not, therefore, allowed to go off on a 'fishing expedition' through their council's documents. If a councillor is a member of a particular committee or sub-committee, then they have the right to inspect documents relating to the business of that committee or sub-committee. If not a member of that committee or sub-committee, the councillor would have to show good cause why sight of them is necessary to perform their duties (See *R v. Clerk to Lancashire Police Committee ex parte Hook* [1980] Q.B. 603).

In such instances, the Chief Executive, Management Team, Section 151 or Monitoring Officers may request a Member to demonstrate their 'need to know'.

6. SCRUTINY

The rules and procedures governing Officer and Member responsibilities in support of the Council's overview and scrutiny function are set out in Part 5 of the Constitution.

7. WORKING WITH THE MEDIA

7.1 Information provided to the media is governed by the Local Government Act 1986 and the Code of Practice on Local Authority Publicity. In particular:

Information should be:-

- Objective, factual and informative
- Non-party political or designed to affect public support for a political party

7.2 The functions of the Council are discharged corporately and it is not, therefore, appropriate for public resources to be used to promote the views of individual Members. This does not preclude, in the interests of public accountability, publicity of the views of individual Members when they are representing the Council.

7.3 Press releases containing comments by individual Members are similarly acceptable practice. The Communications Manager will provide the press with factual information but comment will only be provided by Officers with the prior consent of the Chief Executive and/or the relevant Portfolio Holder/Cabinet Member or the relevant Committee Chairman.

7.4 The principle that the Council cannot use public resources at any time to promote the views or policies of a particular party is heightened during **election periods**. During the period just before elections there are restrictions on local authority publicity and rules concerning media reporting of the election campaign, the so-called "purdah" period, is defined as beginning with the last date for publication of notice of the election. Prior to this period, guidance will be issued to both Members and Officers setting out the Council's own version of the convention in the period leading up to the elections.

Tendring District Council

Part 6 – Planning Probity Protocol

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1 INTRODUCTION

1.1 This Planning in Probity Protocol ("Protocol") has been prepared using the advice in the Local Government Association's revised guidance note on good planning practice for Members and Officers dealing with planning matters – Probity in Planning: the Role of Councillors and Officers (December 2019).

1.2 **The aim of this Protocol:** To ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

1.3 **The key purpose of planning**: "*the purpose of the planning system is to contribute to the achievement of sustainable development*" (para 7 of the National Planning Policy Framework (NPPF). Planning matters have a significant impact on our lives and the area where we live, work or play. Consequently, planning attracts a great deal of public and media interest. It is important that the system operates, and is seen to be operated, in an honest, open and transparent manner.

1.4 **Your role as a Member of the Planning Committee**: To make planning decisions openly, impartially, with sound judgement and for justifiable planning reasons.

1.5 **When the Protocol applies**: This Protocol applies to Members at all times they are involved in the planning process. This includes, where applicable, when part of decision-making meetings of the Council, 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. If you have any doubts about the application of this Protocol to your own circumstances you should seek advice early, and preferably well before any action is taken, site visits undertaken or formal committee meeting takes place, from the Monitoring Officer.

1.6 In this Protocol when the term "Councillor" or "Member" is used it means that the advice is applicable to all Members of the Council. The term "Planning Committee Member" means a Member or a substitute Member of the Council's Planning Committee.

1.7 **Relationship to the Members' Code of Conduct**: Members are reminded that the Planning Probity Protocol is designed primarily for Members of the Council's Planning Committees and Members who, for whatever reason, find themselves involved in the planning process. Whilst the Protocol interprets the Members' Code of Conduct with respect to planning matters, it is subordinate to the Members' Code of Conduct and in the event of any inconsistencies arising between this Protocol and the Members' Code of Conduct, the Members' Code of Conduct shall prevail.

2 GENERAL ROLE AND CONDUCT OF MEMBERS AND OFFICERS

Introduction:

The Council has adopted a Protocol on Member and Officer Relations, which is contained within the Constitution in Part 6. The success of the Council is greatly dependent upon the positive nature of the working relationship between Members and Officers. Mutual trust and respect between both Members and Officers are essential to good local government.

The purpose of the **Protocol on Member and Officer Relations** is to provide a guide to good working relationships between Members and Officers, defining their respective roles and outlining the principles that underpin their relationship.

The protocol also builds on the respective Codes of Conduct for both Members and Officers and through this promotes the maintenance of integrity, both real and perceived, of the Council as well as very high standards of personal conduct.

The Underpinning Principles of working relationships are set out below and to be followed by <u>both Members and Officers</u> in fulfilling their duties:

- Mutual respect and courtesy between Officers and Members;
- An awareness of each other's responsibilities and duties;
- No inappropriate criticism, intimidating behaviour, or the creation of a threatening work environment of any kind from either Members or Officers;
- Any appropriate challenges are to be conducted in a professional and respectful manner;
- Equal treatment, regardless of personal or political opinion (actual or perceived);
- An adherence to the law and the lawful instructions and advice of others; and
- An avoidance of close personal familiarity.

The above principles are designed to foster the good working relationships between Officers and Members that are essential to effective decision making and the delivery of services.

OFFICERS:

2.1 The function of Officers is to support and facilitate the Councillors in their work and to ensure that robust and lawful decisions are made. Planning decisions must be made in accordance with the Local Plan and other material planning considerations (section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004).

2.2 The Director of Planning & Communities makes decisions on the majority of planning applications under delegated powers and makes recommendations on more significant and contentious applications and other planning matters for decision by the Planning Committee.

2.3 Planning Officers will provide professional advice and must provide Planning Committee Members with an Officer's recommendation on whether or not planning permission should be granted, based on the Planning Officer's assessment.

2.4 In considering applications and in advising members of the public on planning policy, the determination of planning applications, enforcement and other planning matters, Officers must:-

- act fairly and openly and avoid any actions that would give rise to an impression of bias;
- avoid inappropriate social contact with applicants and their agents, objectors and other interested parties;
- approach each planning application or issue with an open mind, avoiding preconceived ideas;

- carefully weigh up all relevant planning issues before making a decision;
- make decisions and recommendations purely on planning grounds having regard to the Local Plan and other material considerations;
- give professional, objective and consistent advice; and,
- carry out the decisions of the Committee insofar as they relate to the completion of any legal agreement, or instigation or defence of proceedings.

PLANNING COMMITTEE MEMBERS:

2.5 In return Planning Committee Members must adhere to paragraph 1.2 of the Members' Code of Conduct and treat local authority employees (officers) and representatives of partner organisations and those volunteering for the Council with respect and respect for the role they play.

2.6 The Code of Conduct states "*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*".

2.7 The relationship between officers and members during the Planning Committee meeting should be based on mutual respect and courtesy, recognising that Officers are in attendance to assist Planning Committee Members answering questions, to enable them to make their decision. Officers are not in attendance to be cross examined or subject to inappropriate criticism.

3 RELATIONSHIPS TO MEMBERS' CODE OF CONDUCT

3.1 The rules contained in the Members' Code of Conduct must always be complied with first. These are both the rules on Disclosable Pecuniary Interests (DPIs) and any other interests identified by the Council, and the general rules and obligations giving effect to the Seven Principles of Public Life: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

3.2 **Do** then apply the rules in this Protocol, which seek to explain and supplement the Members' Code of Conduct and the law on decision making for the purposes of planning control. If you do not abide by this Protocol, you may:

- put the Council at risk of proceedings on the legality of the related decisions or maladministration;
- undermine the integrity of such important decision making and reduce public trust and confidence; or

- put yourself 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, a complaint being made to the Police to consider criminal proceedings.

3.3 **DECLARATIONS OF INTERESTS & IMPACT ON PARTICIPATION**

The Council's Members' Code of Conduct sets out requirements for Members on declaring Disclosable Pecuniary Interests, Other Registerable Interests and Non-Registerable Interests and the consequences on participation of having such an interest. These must be followed scrupulously, and Members should review their situation regularly and ensure they understand their requirements under the Code of Conduct with regards to the provisions on Interests. Not only should impropriety be avoided but also any appearance or grounds for suspicion of improper conduct.

A Planning Committee Member with a Disclosable Pecuniary Interest (as described in Appendix B to the Members' Code of Conduct), in respect of a particular planning matter must declare it and take no part in the discussion or the determination of the proposal. He or she should leave the room before the item is considered. Failure to do so could result in a criminal offence being committed.

The responsibility for this rests with each Planning Committee Member, who should understand if they have an Interest before the Planning Committee meeting takes place. Advice can be obtained in advance from the Monitoring Officer or their Deputy if required, in advance of a Planning Committee meeting. Ideally advice should be requested in good time, and not just before the start of the Committee meeting, as it may not be possible to provide a response immediately before the meeting is due to start . It is considered unsatisfactory if a Planning Committee Member asks for guidance in the course of a debate.

3.4 **Do** disclose the existence of the Interest providing a full explanation of its nature and impact; and

3.5 **Do take into account when approaching a decision that the principle of Integrity (one of the Nolan Principles in Public Life) is defined as**

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

3.6 It is therefore advisable that Members:

(i) Note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate Officer, in person or in writing, but that

(j) your role as a Councillor and/or Planning Committee Member may place additional limitations on you in representing the proposal in which you have an interest.

(ii) Notify the Monitoring Officer in writing where it is clear to you that you have a Disclosable Pecuniary Interest, Other Registerable Interest, Non-Registerable interest or other personal conflict of interest and note that:

- you should send the notification no later than submission of that application where you can;
- the proposal will always be reported to the Planning Committee as a main item and not dealt with by Officers under delegated powers;
- you must not get involved in the processing of the application; and
- it is advisable (but not mandatory) that you employ an agent to act on your behalf in respect of the proposal when dealing with Officers and in public speaking at Planning Committee.

4 APPLICATIONS SUBMITTED BY THE COUNCIL, MEMBERS OR OFFICERS

4.1 The Planning Committee Terms of Reference (as set out in Part 3 of the Constitution) requires that the following Planning Applications are referred to the Planning Committee for determination:

a) the applicant is the Council or someone acting as applicant on the Council's behalf or in respect of Council owned land unless the application is recommended for refusal; and

b) the applicant is a Member of the Council, or one of the Council's Senior Managers, as determined by the individual services, and all Officers within Planning and Legal Services and there is an Officer recommendation for approval.

5 MEMBER TRAINING

5.1 A Member (or designated named Substitute Member) cannot sit as a member of the Planning Committee unless they have received specific training with regard to the determination of planning applications (Part 4 of the Constitution - Council Procedure Rules). This training is essential for both exercising committee functions and also complying with this Protocol.

5.2 Being a member of the Planning Committee can be a difficult role to carry out. The Council provides training for Councillors on the determination of planning applications at least once a year, and this is a mandatory requirement to sit as a member of the Planning Committee

(Council Procedure Rules). The Council also aims to provide more specialist training throughout the year to update knowledge, cover specific topics, appeal decisions, new legislation, guidance and policy, and to generally look at matters in greater depth. Current Planning Committee Members (which includes designated named Substitute Members, see paragraph 1.6) should attend all planning training events arranged by the Council. It is open to all other Councillors to attend these training sessions however, where places are limited, current Planning Committee Members and named Substitute Members of the Planning and/or Planning Policy and Local Plan Committees will take priority.

5.3 **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.

5.4 **Do** attend all planning training including specialised training sessions provided and arranged by the Council under a continuing programme either because the topic has been designated mandatory for Planning Committee Members (and designated named Substitute Members) or to assist you in the functions of the Planning Committee. This training is designed to extend your knowledge of planning policy, law, regulations, procedures, Codes of Practice and the Development Plans and thus assist you in carrying out your role properly and effectively.

5.5 Organised training provides opportunities to review a sample of planning decisions as to ensure that Planning Committee Members' judgements have been based on proper planning considerations.

6 FETTERING DISCRETION IN THE PLANNING PROCESS PREDISPOSITION, PREDETERMINATION AND BIAS

6.1 In addition to declaring Disclosable Pecuniary interests, Other Registerable Interests and Non-Registerable Interests, members of a Planning Committee need to avoid any appearance of bias or of having predetermined their view at the time of making a decision on a planning application.

6.2 The law on **bias and predetermination** (which is a particular form of bias) is part of the general legal obligations on public authorities to act fairly and the existence of such can result in an unlawful decision being made and subject to judicial review. Decision makers are entitled to be **predisposed** to particular views.

PREDISPOSITION

6.3 A distinction is drawn by the Courts between a Councillor having clearly expressed an intention to vote in a particular way before a meeting (pre-determination) and a predisposition to an initial view. Where the Councillor is clear they have an open mind and are willing to listen to all the material considerations presented at the Planning Committee before deciding on how to exercise their vote, there is no predetermination**.**

BIAS

6.4 Councillors should not participate in the consideration of a planning application if to do so would give the appearance of bias (actual or perceived), and the decision may be challenged on the grounds of bias in the High Court. **The test for bias is: "*Would the fair-minded observer, knowing the background, consider that there was a real possibility of bias?*"**

It is not the Councillor's view of whether they are biased that is relevant but the view of the independent observer. Perception is important and can lead a fair-minded observer to consider that there is a real possibility of bias, they should not participate in making the decision and should withdraw from the room (or virtual meeting where appropriate). Further, Councillors do not have to have a personal interest in order to come within the definition of bias. The Courts have held that it is primarily a matter for the Councillor to judge whether to withdraw but given the scope for challenge the Councillor should always err on the side of caution. Whilst not every application will raise the question of bias, there will be occasions when a member of the public in possession of all facts might consider that there is a real risk of bias. In these circumstances, the Councillor should seek advice from the Monitoring Officer, their Deputy or a legal adviser to the Planning Committee.

PREDETERMNATION

6.5 **Predetermination occurs where someone closes their mind to any other possibility beyond that predisposition**, with the effect that they are unable to apply their judgement fully and properly to an issue requiring a decision. The leading case on local authority bias and predetermination acknowledges the difference between Judges sitting judicially and Councillors making decisions in a democratic environment. Given the role of Councillors, there must be 'clear pointers' before predetermination is established. Where there is predetermination, the Councillor should not participate in the consideration of a planning application.

6.6 The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a "closed mind" and likely to leave the Planning Committee's decision susceptible to challenge by Judicial Review. The latter is the perfectly normal process of someone making up their mind.

6.7 EXAMPLE: a Councillor who states, "Windfarms are blots on the landscape and I will oppose each and every windfarm application that comes before the committee" will be perceived very differently from a Councillor who states, "Many people find windfarms ugly and noisy, and I will need a lot of persuading that any more windfarms should be allowed in our area". The former has a closed mind and is predetermined, whereas the latter is predisposed but is maintaining an open mind.

6.8 The following diagram is produced to help Councillors appreciate the range of circumstances (the following is guidance only; any specific questions should be raised with the Council's Monitoring Officer):

Lawful	No view	
	Predisposition	• Manifesto pledges/commitments • Policy making and setting
Unlawful	Predetermination	• Clearly expressed intention to vote in a particular way on an individual application whatever the information provided
	Bias	• Membership of an organisation that supports or opposes particular developments or development types

PARTICIPATING IN DECISION MAKING

6.9 Councillors are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under Section 25 of the Localism Act 2011. The Section provides

(1) Subsection (2 - below) applies if—

(a) as a result of an allegation of bias or predetermination, or otherwise, there is an issue about the validity of a decision of a relevant authority, and

(b) it is relevant to that issue whether the decision-maker, or any of the decision-makers, had or appeared to have had a closed mind (to any extent) when making the decision.

(2) A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because—

(a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and

(b) the matter was relevant to the decision.

The Section makes it clear that if a Councillor has given a view on an issue, this, considered in isolation, does not show that the Councillor has a closed mind on that issue. So, the mere fact that a Councillor has campaigned on an issue or made public statements about their approach to an item of council business does not prevent that Councillor from being able to participate in discussion of that issue and to vote on it.

6.10 However, decision-makers must not fetter their discretion by approaching the decision to determine a planning application with a closed mind or exhibiting bias. It is a legal requirement to approach the determination of a planning application with an open mind to prevent a legal challenge for pre-determination or bias (both being judicial review grounds in administrative law).

6.11 When Planning Committee Members come to make the decision, they:

- should not take part if they are bias or to take part would give the appearance of bias (see paragraph 6.4 for an explanation of bias),
- are entitled to have and to express their own views on the matter, provided they are prepared to reconsider their position in the light of all the evidence and arguments;
- must keep an open mind and hear all of the evidence before them, 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 held when seeking election or otherwise acting as a Member, in giving fair consideration to points raised;
- are only entitled to take account of material planning considerations and must disregard considerations irrelevant to the question and legal context at hand;
- must be prepared to change their view right up to the point of making the decision; and
- come to a decision after giving what they feel is the right weight to those material planning considerations.

6.12 Councillors can listen to applicants and objectors, and indicate their view, but must not give the perception that they are biased in their consideration of their issues. Councillors can support or oppose an application and represent the views of their residents in their role as a Ward Councillor. To do so as a Planning Committee Member MIGHT compromise their role on the Committee and Councillors must seek advice from the Monitoring Officer, their Deputy or the legal adviser to the Planning Committee.

6.13 A Planning Committee Member should take the opportunity to exercise their separate speaking rights as a Ward Member where you have represented your views or those of local electors and fettered your discretion, but do not have a Disclosable or other personal conflict of interest (see paragraph 6.14 in respect of Interests). Where you do:

- advise the Committee Officer or the Chairman that you wish to speak in this capacity at the Declaration of Interests part of the agenda and before commencement of the item and in accordance with the Public Speaking Scheme;

- remove yourself from the seating area for Members of the Planning Committee for the duration of that item;
- take a seat in the public gallery and address the Members of the Planning Committee when invited to in accordance with the Public Speaking Scheme
- you may remain in the public gallery for the duration of the item as you are representing the Ward; and
- ensure that your actions are recorded within the minutes.

6.14 If a Planning Committee Member has a Disclosable or other personal conflict of interest under the Members' Code of Conduct, they may exercise their speaking rights as a Ward Member only with a dispensation from the Council's Monitoring Officer. In these circumstances, all of the bullet points in paragraph 6.13 apply however, in respect of bullet point 4, they must withdraw from the meeting room once they have addressed the Planning Committee in accordance with the Public Speaking Scheme.

7 CONTACT WITH APPLICANTS, DEVELOPERS AND OBJECTORS

7.1 Planning Committee Members must refer those who approach them for planning, procedural or technical advice to Officers.

7.2 Planning Committee Members must only attend private meetings organised in accordance with this Protocol and must not attend private meetings with applicants, developers or groups of objectors. To do so could result in a finding of bringing the Council into disrepute and breaching paragraph 5 of the Members' Code of Conduct.

7.3 Where you feel that a formal (private) meeting would be useful in clarifying the issues, you should seek to arrange that meeting yourself through a request to the Director of Planning and Communities or Head of Planning and Building Control to organise it. The Officer(s) 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 public file at the earliest convenience. In all cases, the involvement of Councillors will be recorded in any subsequent planning application, whether in any delegated report or in any Committee report.

7.4 **Do** otherwise:

- follow the Authority's rules on lobbying (see Section 8 of this Protocol);
- consider whether or not it would be prudent in the circumstances to make notes when contacted; and

- report to the Head of Planning and Building Control 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

7.5 A public presentation arranged by the applicant/developer is not part of the formal process of debate and determination of the subsequent planning application. However, where an applicant has arranged a public presentation for a proposal (prior to or following the submission of an application), a Planning Committee Member may attend that public meeting if they consider that they would find this helpful to understand the proposal.

In attending a public presentation, Planning Committee Members must be careful with behaviors and not place themselves in a situation which could be perceived as giving a view on the application (or proposed application).

If they wish to subsequently take part in the decision making of the application for the proposal, they must not enter into any discussions with the applicant, their agent or any member of the public present at the meeting to avoid being lobbied and to avoid allegations of pre-determination and/or bias. When attending, the Planning Committee Member must adhere to the general rules and obligations as set out in their Members' Code of Conduct, giving effect to the Seven Principles of Public Life (Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership), and the rules on lobbying set out in Section 8 of this protocol.

If you decided to attend a public presentation you must declare this at the meeting for openness and transparency, explain the purpose of your attendance and what action was taken, including if you were approached as this would be regarded as lobbying. This information will be recorded in the minutes and acts as a record.

7.5 **Don't** attend a planning presentation without requesting an Officer to be present.

7.6 **Do** otherwise:

- ask relevant questions for the purposes of clarifying your understanding of the proposals.
- remember that the presentation is a form of lobbying and not part of the formal process of debate and determination of any subsequent application; this will be carried out by the Planning Committee of the Planning Authority.
- be aware that as the presentation is a form of lobbying so avoid placing yourself in a situation which could be perceived as giving a view on the application, or enter into any discussions with the applicant, their agent or any member of the public present at the meeting to avoid being lobbied and to avoid allegations of pre-determination and/or bias.
- follow the Authority's rules on lobbying.

- report to the Head of Planning and Building Control 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;

- when the application is being considered under the Declaration of Interests item on the agenda and in the interest of openness make the necessary declarations at the Planning Committee that you have been lobbied on a particular matter by attending a presentation and state whether you are pre-determined or not

8 LOBBYING OF AND BY COUNCILLORS

8.1 Lobbying is a normal and perfectly proper part of the political process. Members of the public, applicants or local interest groups will often seek to influence a decision through an approach to their Ward Member. In the case of a Planning Committee Member, care needs to be taken to avoid the perception of bias or predetermination of any planning matter.

8.2 A Planning Committee Member should explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said (or read what is put in writing and sent to them), it may subsequently prejudice their impartiality and ability to participate in the Committee's decision-making, if they are asked to express either an intention to vote one way or another or such a firm point of view that is amounts to the same thing.

8.3 Planning Committee Members should ensure that it is made clear to any lobbyists that they will only be in a position to reach a final decision on any planning matter after they have heard all of the relevant arguments and looked at the relevant information during the sitting of the determining Committee.

8.4 Planning Committee Members should therefore:

- suggest to lobbyists that they write to the Director of Planning and Communities in order that their views can be included in the Officer reports prepared for determination under delegated powers or by Committee;

- pass on any lobbying correspondence received (including plans, data, correspondence etc. in respect of an application) to the Director of Planning and Communities or email PlanningSupport&Development@tendringdc.gov.uk as soon as practicably possible so that it can be taken into account and included in the report on the application;

- remember that their overriding duty is to the whole community not just to the residents and businesses within their ward and, taking account of the need and duty to make decisions impartially, and should not improperly favour, or appear to improperly favour, any person, company, group or locality;

- not accept gifts or hospitality from any person involved in or affected by a planning proposal, but if a degree of hospitality is entirely unavoidable, ensure that they comply with the provisions in the Members' Code of Conduct on gifts and hospitality; and,

- inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate Officers to follow the matter up where necessary.

8.5 Planning Committee Members should note that, subject to the requirements to ensure that Members comply with the Members' Code of Conduct and the rules regarding bias and pre-determination and ensure that they take appropriate action in relation to Disclosable Pecuniary Interests, Other Registerable Interests and Non-Registerable Interests, they are not precluded from:

- listening or receiving viewpoints from residents or other interested parties;
- making comments to residents, interested parties, or other Members or appropriate Officers, provided they do not consist of or amount to predetermination or bias and they can make clear they are keeping an open mind when it comes to making the decision;
- seeking information through appropriate channels; or,
- being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided that under the Declaration of Interests item on the agenda they explain their actions and make it clear that, either (a) having expressed the opinion or ward/local view, they have not committed themselves to vote in accordance with those views and will make up their own mind having heard all the facts and listened to the debate (they are not pre-determined); or (b) state that they wish to exercise their separate speaking rights on the application as a Ward Member, following the procedure set out in paragraphs 6.13 or 6.14 as appropriate.

8.6 In the interest of openness, it is recommended that Planning Committee Members must make the necessary declarations that they have been lobbied on any particular matter at the Committee when the application is being considered under the Declaration of Interests item on the agenda.

8.7 Planning Committee Members should not become a member of, lead or represent a national or local organisation whose primary purpose is to lobby to promote or oppose planning proposals. If a Planning Committee Member does, he/she may appear to be biased

8.8 Whilst Planning Committee Members may be able to address the Committee as a Ward Member or an objector, they are not able to participate or vote on any matter in respect of which they have a disclosable pecuniary interest unless they have received a dispensation for this purpose (see paragraph 6.14).

8.9 Plannng Committee Members can join general groups which reflect their areas of interest, and which concentrate on issues beyond particular planning proposals, but they should disclose a personal interest where that organisation has made representations on a particular proposal. A Planning Committee Member should make it clear to that organisation and the Planning

Committee that they have reserved judgement and the independence to make up their own mind on each separate proposal.

8.10 Members should not excessively (*) lobby Planning Committee Members regarding their concerns or views on a planning application, 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.

(*) Members are entitled to lobby however, this should not be more than is necessary or normal to make the points/views known. Members should not use access to Council resources, including fellow Councillors to seek an advantage or to compromise the impartiality of the decision making.

8.11 Planning Committee Members must not decide or discuss how to vote on any application at any sort of political group meeting or lobby any other Member to do so.

8.12 Members should avoid any direct contact with consultees and instead work with Planning Officers to resolve any concerns or arrange contact (not least as someof the Consultees charge for time).

9 SITE VISITS/INSPECTIONS

CONDUCT AT THE SITE VISIT

9.1 Officers will arrange the site visit in advance with relevant parties. There is no right to enter on private land without permission of the landowner. Where appropriate, Officers will obtain permission from the landowner or his/her agent for those invited to attend the site visit to enter the land. If permission is not given for the Planning Committee Members and Officers and other interested parties to enter, or exceptional circumstances exist and advice has been given, the site will have to be viewed from the public highways/areas where this is possible.

9.2 Prior to attending site visits Planning Committee Members must familiarise themselves with the Council's Health and Safety Risk Assessment document for site visits which they must adhere to. Failure to adhere to the guidance contained in the Risk Assessment during a site visit arranged for an application will result in the Planning Committee Member not being permitted to take part in the determination of that application at the Planning Committee.

9.3 The Chairman (or Vice-Chairman) will control proceedings throughout.

9.4 The Chairman (or Vice-Chairman) will explain to all those present that the purpose of the site visit is to obtain information relevant to the determination of the application and how the site visit will be conducted. The Chairman will make it clear to interested parties who are in attendance (including the applicant/agent, supporters, objectors, Ward Members and Parish or Town Councillors) that they are not permitted to question or lobby the Planning Committee Members. If attempts to question and/or lobby persist, the site visit will be stopped, and all Planning Committee Members and Officers will leave the site

9.5

The Chairman (or Vice Chairman) will introduce the Planning Officer who will describe the proposals to the Planning Committee Members with reference to matters of fact and features on the land and the submitted plans/drawings and summarise the relevant issues and material considerations. It is expected that the Planning Committee Members will already be familiar with the Planning Officer's report where one has been provided.

9.6 The Planning Committee Members may ask the Planning Officer for factual clarification of any planning matter relating to the proposal or surrounding land, for example, distances to adjoining or objectors' properties or the location of the planned development.

9.7 Other Officers may be present to provide other specialist/expert advice/information where relevant/required (e.g. Highways Engineers, Tree Officers or Environmental Health Officers etc.)

9.8 Planning Committee Members will then be invited through the Chairman (or Vice-Chairman) to ask any questions of fact or seeking clarification from the Officers present. Planning Committee Members must not direct these questions to the applicant or others present. Any matters not to hand will be reported at the Planning Committee meeting. Discussion on the merits of the application will not be permitted, and Planning Committee Members should refrain from making comments on the proposal.

9.9 Representatives of objectors and/or supporters may be invited/allowed to attend the site visit as interested parties. However, the right of a representative to address the Planning Committee does not arise until this item is reached on the agenda during the relevant meeting of the Planning Committee. Presentations from interested parties should on no account be made, interested parties will have the opportunity to address the Planning Committee through the Public Speakers Scheme. Occasionally it may be appropriate for interested parties to be asked, through the Chairman (or Vice-Chairman), to point out important or relevant site features. At no point during the site visit will debate or comment on the planning merits or otherwise of the proposal be permitted, as the proper time for such debate/comment is at the relevant meeting of the Planning Committee.

9.10 A Ward Councillor(s) may attend the site visit; however, any Ward Councillor(s) must refrain from debating or commenting on the planning merits or otherwise of the proposal. Ward Councillors will be permitted to make representations at the relevant meeting of the Planning Committee.

9.11 During the site visit, no separate discussions regarding the application must take place with Officers or Planning Committee Members and either applicants, objectors or supporters. In order to assist in ensuring that Planning Committee Members receive the same information, they are required to keep together in one group at all times with the Chairman (or Vice-Chairman) and the Planning Officer during the entirety of the accompanied site visit. It is vital that Planning Committee Members do not break-off either as individuals or into smaller groups thereby leaving Planning Committee Members vulnerable to for example, lobbying,

and physical or verbal threats, and to ensure that there are no discussions about the proposal separately with residents or the applicant

9.12 During the site visit, Officers and Planning Committee Members will not accept any representations (including verbal presentations, documents, letters or petitions) from applicants, objectors or supporters. Any representations should be sent to the Planning Department, and these will be reported to the relevant meeting of the Planning Committee.

9.13 No hospitality will be accepted by Officers and/or Planning Committee Members from the applicant or any other interested party present at the site visit.

9.14 The Planning Committee Members present at the site visit will sign an attendance sheet. Planning Committee Members failing to attend the site visit will not be considered to have sufficient knowledge of the site and the issues arising from the site visit to enable them to take part in determining the application when it is presented to the Planning Committee for consideration. As such, they will not be permitted to take part in the determination of the planning application at the Planning Committee.

9.15 The Chairman (or Vice-Chairman) will conclude the site visit. The Planning Committee Members will leave the site promptly, as a group, and refrain from talking to the applicant, objectors or other interested parties. No indication of the views of Planning Committee Members or the likely outcome of the Planning Committee's deliberations on the application will be given. To do so might imply that a Planning Committee Member's mind is already made up. If attempts are made to speak to the Planning Committee Members they should politely decline to engage in conversation, and bring this to the attention of the Chairman (or Vice-Chairman) and the Planning Officer before leaving the site so that it can be recorded. Should the Chairman (or Vice-Chairman) consider it appropriate to do so, following seeking Officers advice, reference to these events may be raised in the formal Planning Committee meeting for the public record.

9.16 If Planning Committee Members require further information or clarification of any aspect of the development, the Officer(s) attending the site visit will be asked to ensure that such information is available by the time the application is considered by Planning Committee Members at the relevant meeting of the Planning Committee.

9.17 The Practice of the Council is to visit application sites prior to their consideration at Planning Committee. The Head of Planning and Building Control will identify which sites will need to be visited. If the Planning Committee have visited a site recently then this site will not be visited again.

9.18 The purpose of the site visit is for Planning Committee Members to gain factual knowledge of a site and make a visual assessment of the proposal and its relationship with adjoining development.

9.19

The Planning Committee Members will be provided with a "Member Pack" which includes a selection of the PowerPoint slides that will be displayed at the Planning Committee. These describe the application proposal and summarise the main issues.

9.20 Officers will arrange with the developer/landowner, where possible, for the Planning Committee Members to gain access to the site.

9.21 Before the Planning Committee Members get on the bus, the Chairman (or Vice-Chairman), will ask the Planning Committee Members whether they need to declare an interest in an application. When the bus arrives at each site Planning Committee Members will be reminded again of their need to declare any interest they may have, as it may only become apparent to Planning Committee Members that they have an interest when they arrive at a site. The Head of Planning and Building Control will record any interests that are declared

9.22 If a Planning Committee Member declares a Disclosable Pecuniary Interest, an Other Registerable Interest or Non-Registerable Interest, then they should remain on the bus and not take part in the site visit. If a Planning Committee Member is in doubt as to whether they have an Interest in a particular matter they should take advice from the Council's Monitoring Officer (or Deputy Monitoring Officer) before attending the arranged site visit (see paragraph 3.3). If a Planning Committee Member declares an Interest then they are not able to take part in the visit. It is incumbent upon the Planning Committee Member to ensure the impact of their interest before taking part in the site visit and that they do not seek to compromise the decision making process.

9.23 Planning Committee Members also need to consider whether they have an open mind or if there is bias or the perception of bias about the application before taking part in a site visit.

9.24 Where a Planning Committee Members does not take part in the site visit having declared an Interest or due to pre-determination or bias, they must not discuss the application with the other Planning Committee Members at any point prior to the determination of that application by the Planning Committee.

EXCEPTION TO THE COUNCIL'S LOCAL PRACTICE OF UNDERTAKING SITE VISITS

9.25 Whilst it is the Council's standard local practice to undertake site visits, there will be exceptional circumstances where an organised site visit is not possible.

9.26 Site visits are not legally required for the determination of planning applications but forms part of local practice, which protocols must clearly set out. If a site visit cannot be organised, **due to exceptional circumstances**, a planning application can still be determined by the Planning Committee, so long as the guidance issued by the Council is adhered to.

9.27 Should circumstances prevail where the Council has had to determine if it is not possible to organise a site visit, Members of the Planning Committee will be issued with guidance by the Monitoring Officer, which is relevant to the particular situation arising. Such guidance will take

into account health and safety risk assessments, current legislation and central government guidance, including that issued by the Planning Inspectorate and/or the Chief Planning Officer.

10 POST-SUBMISSION DISCUSSIONS

10.1 Members should not encourage appealing, JR or complaint against the Council without speaking to the Council Officer first.

10.2 Members should not pass on any known details of the case, including any individual names or details that may be known to them, and should instead direct to the Report and Council Officers for assistance as needed.

10.3 Members should not visit the site within a week of the decision to ensure no perception of bias, this would avoid heighten tension with applicant/neighbours not please by the decision.

11 PUBLIC SPEAKING AT MEETINGS

11.1 **Don't** allow members of the public to communicate with you before the opening, during the proceedings, during breaks or immediately after the close of the Planning Committee meeting (orally or in writing) other than through the scheme for Public Speaking or through the Chairman, as this may give the appearance of bias.

11.2 **Do** ensure that you comply with the Council's procedures in respect of public speaking.

11.3 Members of the public are not permitted to communicate with Planning or Legal Officers immediately before, during or after the Planning Committee meeting proceedings.

12 REPORTS & DECISION MAKING

12.1 In coming to a decision on a planning application, a Planning Committee Member must:

- come to the meeting with an open mind;
- Comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Council's Local Plan and Development Plan Documents unless material considerations indicate otherwise;
- not communicate with anyone (except Officers and other Planning Committee Members) orally, electronically, in writing or by any other means during the proceedings of the Planning Committee (which includes before the opening of the meeting, during any breaks, and immediately after the close of the meeting);
- come to a decision only after due consideration of all the information reasonably required to base a decision upon;
- refrain from expressing personal views, opinions or emotions and instead restrict themselves to matters of planning law, policy and all relevant material planning considerations when exercising your planning judgment;

- not vote on a proposal unless they have been present to hear the whole debate including the Planning Officer's presentation and any public speaking (and where applicable, attended the site visit), where an application has been deferred they must also have been present at the original meeting when the application was first considered; and

- ensure that if they are proposing, seconding or supporting a decision contrary to the Officer's recommendation or the Local Plan, that they can identify, understand and articulate the **planning reasons they wish to rely on,** leading to their conclusion. Any professional advice given by Officers present at the Planning Committee must be taken into account and considered. Reasons must be given before a Seconder to the proposal is sought and the vote is then taken and recorded. The Chairman (or Vice-Chairman) or Officers will remind the Planning Committee that this is legally required before a decision can be made, if necessary.

12.2 Reports to the Planning Committee will normally be available at least five working days to the meeting. Presentations to the Planning Committee and update sheets are uploaded onto the Council's website, as this is additional material taken into account through the decision-making process.

12.3 All applications submitted to the Planning Committee will have a full written report from Planning Officers including a reasoned assessment of the proposal, reference to relevant policies and a justified recommendation and analysis of available options. Reports will cover the substance of any objections and the views of people and bodies that have been consulted.

12.4 Any oral presentations raising new matters and updates by Planning Officers to the Planning Committee will be minuted.

12.5 Planning Committee Members must ensure that they are present for the whole presentation by Officers and subsequent debate on a particular matter and do not attend or leave part way through, this includes where an application is deferred. This is to ensure that they are able to hear all the relevant evidence and debate in relation to a proposal. In the event that a Planning Committee Members is not present for the whole of the debate and consideration of the application (including an arranged site visit) they will not be permitted to take part in the decision making. The Chairman and/or Officers will be able to offer advice on this point.

12.6 Where an application is recommended for refusal the reasons will be set out in full in the Planning Officer's report.

DECISIONS CONTRARY TO THE OFFICER RECOMMENDATION

12.7 Planning Committee Members must indicate the planning reasons at the Planning Committee meeting for approval or refusal of applications determined contrary to Officer advice, including identifying relevant policies. Pressure must never be put on Officers to "go away and sort out planning reasons".

12.8 Where an application is being considered at the Planning Committee for refusal contrary to Officer advice, the proposed reasons for refusal will be agreed at that Planning Committee

meeting. The reasons will be recorded in the minutes and be based on material planning considerations and the relevant policies supporting the refusal. An opportunity will be given to the Officer to explain the implications of the contrary decision. If a successful planning appeal follows a refusal contrary to Officer advice, clear identification of good planning reasons for refusal will reduce the chance of a cost award.

FREE FROM POLITICAL INSTRUCTION

12.9 Members of the Planning Committee must make planning decisions on planning grounds. "Whipping" is inappropriate, and decisions must not be taken in party grounds on how to vote on particular applications prior to the Planning Committee meeting.

DECLARATIONS OF INTERESTS

12.10 The Council's Code of Conduct sets out requirements for Members on declaring pecuniary and non-pecuniary interests and the consequences of having such an interest. These must be followed scrupulously, and Members should review their situation regularly. Not only should impropriety be avoided but also any appearance or grounds for suspicion of improper conduct.

12.11 A Planning Committee Member with a pecuniary interest in respect of a particular planning matter must declare it and take no part in the discussion or the determination of the proposal. He or she should leave the room before the item is considered. The responsibility for this rests with each Planning Committee Member. Advice can be obtained from the Council's Monitoring Officer or where appropriate the Deputy Monitoring Officer if required, well in advance of a Planning Committee meeting. It is unsatisfactory if a Planning Committee Members asks for guidance in the course of a debate.

REQUESTS BY MEMBERS FOR INFORMATION

2.12 Wherever possible, Members should give advance notice of additional information they intend to request, or information they intend to contest, at the Planning Committee meeting so that Officers can be in a position to assist and avoid the unnecessary deferral of a decision.

PUBLIC PARTICIPATION

12.13 In order to give greater opportunity to applicants and objectors to express their respective points of view, the Planning Committee operates a scheme of public participation.

13 PLANNING APPEALS

13.1 Appeals into the planning decisions of the Council are heard by a Planning Inspector appointed by the Secretary of State. Any hearing or inquiry will be open to the public and Members are able to attend. Members are encouraged to attend such hearings, as they can be a good learning experience. This part of the code is concerned with Members who wish to actively participle in these appeals.

13.2

If a Member wishes to attend a public inquiry or informal hearing as a Ward Member or as a member of the public, they are free to do so. It is strongly recommended that they discuss their participation with the Director of Planning to ensure that they are aware of the process and that they do not act in a manner which compromises their position as a Member of the Council or brings the Council into disrepute or puts the decision made at risk of challenge.

13.3 A Member cannot attend an appeal on behalf of the Council's Planning Committee, even if they sat on that Committee, unless this is as part of the Council's case as decided by the Director of Planning. The decision of the Planning Committee will be documented in the minute and set out in the decision notice. The Planning Officer will present the Council's case of its planning merits, in accordance with the Planning Committee's decision. The inspector is required to determine the appeal on its planning merits and therefore all representations should be so directed.

13.4 Where the appealed decision was contrary to the Officer's recommendation, Officers are generally able to present the Council's case in a satisfactory manner. Where this may not be possible, the case will be presented by a planning consultant employed by the Council.

14 PLANNING ENFORCEMENT

14.1 Under the scheme of delegation, all planning and conservation matters are delegated except for the determination of certain planning applications that are specified in the constitution. As decisions on planning enforcement matters are not planning applications, they are delegated decisions to Officers and are therefore dealt with by Officers.

14.2 However, principles around such decisions apply as set out in Part 3.6 (paragraph 7) of the constitution. This provides that the delegation of powers to Officers is underpinned by the principle of culture of consultation and liaison with Members, as appropriate, and the ability of Officers to refer matters to the relevant decision-making body, where it is felt that this is appropriate due to the nature of an issue.

14.3 So Officer's may decide to refer a planning enforcement matter to the Planning Committee for determination where consultation with Members is deemed necessary given the nature of issues involved.

14.4 The Members' Referral Scheme only relates to planning applications and not decisions on planning enforcement cases, so cannot be used by Members to refer a planning enforcement matter to the Planning Committee.

14.5 There are a range of ways of tackling alleged breaches of planning control, and local planning authorities should act in a proportionate way. Local planning authorities have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material considerations. This includes a local enforcement plan, where it is not part of the development plan.

14.6 In considering any enforcement action, the local planning authority should have regard to the National Planning Policy Framework, in particular paragraph 60 which provides; '*Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate*.'

14.7 The Council's current local enforcement plan for breaches of planning control is the 'Local Planning Enforcement Policy (v.2: September 2022), which will be updated from time to time.'

Members' Referral Scheme for Planning Applications

Guidance Note March 2024

The Terms of Reference of the Planning Committee as set out in the Constitution delegates all planning and conservation matters to Officers except in relation to certain planning applications, which are for determination by the Committee. Two of the exceptions listed are where Members request that an application should be referred to the Planning Committee. The wording is as follows:

(vi) *Within 35 days of the commencement of formal consultation, a written request is received from a Tendring District Councillor, who is not a serving member of the Planning Committee(#) in accordance with the Member Referral Scheme requesting that the application should be brought before the Planning Committee for determination and giving material planning reasons for that request.*

(#) unless the member of the Planning Committee is making that request solely in their capacity as a Ward Member for the application in question.

(vii) Within 35 days of the commencement of formal consultation, a written request is received from a serving member of the Planning Committee, in accordance with the Member Referral Scheme, requesting that the application should be brought before the Planning Committee for determination and providing compelling reasons why it could be considered of significant importance to the wider District or planning policy.

The following caveat applies:-

The Director (Planning), or other authorised Officer, in consultation with the Chairman of the Planning Committee and the Planning Solicitor, may allow a Member's referral request that is received after the 35 day cut-off if they are satisfied that the request could not have reasonably been submitted before the deadline and that in all other respects it meets the requirements for a valid referral.

The MEMBER REFERRAL SCHEME is based on the following principles:

- The Member Referral Scheme is approved by Full Council as part of the Council's Constitution;
- Elected Members represent their communities and the interests of their ward or of individual residents (in accordance with Article 2 of the Constitution);
- Planning Committee Members are involved in decision-making for the people of the district as a whole (in accordance with Article 2 of the Constitution – 2.03 (a) (v));
- The interests of a ward or individual residents can extend to consideration of planning applications submitted in adjacent wards and those where applications have been made which have a direct impact on other wards;
- A member of the Council's Cabinet may also be permitted to make representations and speak on any application but only if the proposed development has a direct impact on the portfolio for which the Cabinet member is responsible. The Leader of the Council must approve the Cabinet Member making representations to the Planning Committee and requesting the matter to be determined at Committee;

- If an elected Member requests an application to be referred to the Planning Committee for determination, they will be required to personally attend the meeting of the Committee to speak on the item. Planning Services will ensure that the Member is notified when the application is scheduled for determination;
- The Members**'** Referral Scheme does not apply to a householder application, which is defined as follows:

  "A 'householder' application is an application to enlarge, expand, improve or alter an existing dwelling, to put up a boundary wall of fence for an existing dwelling or carry out an operation in the curtilage of an existing dwelling that is ancillary to the dwelling-house".

- Members are required to use the attached letter when referring an application to the Planning Committee to be determined, for ease of reference;

Date: 19th March 2024

Chairman of the Planning Committee

LETTER TO THE DIRECTOR (PLANNING)

Date:

Dear Director (Planning),

MEMBER REFERRAL SCHEME: PLANNING APPLICATION REF: ……..

(*) I am the Ward Councillor for [insert the Ward] and in representing the community*/the interests of the ward* or of individual residents* request the above-mentioned application is referred to the Planning Committee for determination. The planning application is located within:

(a) the Ward to which I am elected to(*); or
(b) is adjacent to the Ward to which I am elected to(*); or
(c) directly impacts the Ward to which I am elected to because (*)
……..
in respect of (b) and (c), I can confirm that I have notified the relevant Ward Councillor(s) of my intention to refer this application to the Committee for determination.

(*) I am the Cabinet Member for [insert responsibility] and the proposed development has a direct impact on the portfolio for which I am responsible. The Leader of the Council has approved representations being made to the Planning Committee.

(*) I am a current serving member of the Planning Committee and the proposed development could be considered of significant importance to the wider district or policy because ……. The Planning Committee Chairman has been consulted and approves this matter being determined by the Planning Committee. By making this request I confirm that I am not predetermined and will approach the decision making with an open mind and therefore have not highlighted any relevant material considerations below.

(#) The referral is because of the following material planning considerations (and for the reasons set out hereunder):-

In line with/potentially contrary to* ***the development plan (Local Plan/LDF) or Government Guidance (please state relevant policies if known)*** ❑

Negative/Positive* impact on urban design/street scene ❑

Highways impact and/or other traffic issues ❑

Good/Poor* ***layout and/or density issues*** ❑

Flood Risk ❑

Positive/Negative* Impact on neighbours ❑

Other material considerations as follows…….. ❑

……

……

……

(#) Tick as appropriate

My reasons for the referral are as follows:-

(>) the referral is for the following compelling reasons why it could be considered of significant importance to the wider District or planning policy ***……***

……

……

……

If officers are minded to approve/refuse* then there is no need for this application to be referred.

Please ensure that I am notified of the date of the committee meeting at which this application will be considered so that I am able to attend and speak on the item.

Yours faithfully,

Councillor ……..

* Delete as appropriate.

TENDRING DISTRICT COUNCIL'S PROTOCOL

FOR CABINET AND OVERVIEW & SCRUTINY ROLES

1. Introduction

1.1 The counterpart to operating Cabinet arrangements within a Council is the provision of Overview & Scrutiny functions. You cannot have Cabinet arrangements without its counterpart.

1.2 Overview & Scrutiny has the following powers in law:

(a) to scrutinise any decision made by the Cabinet,

(b) to make recommendations to the Council/Cabinet with respect to functions/responsibility of the Cabinet,

(c) to scrutinise decisions made by non-executive functions of the Council

(d) to make recommendations to the Council/Cabinet with respect to the non-executive functions/responsibilities,

(e) to make recommendations to the Council/Cabinet on matters which affect the Council's area or the those living there.

1.3 The Council's Constitution sets out how those powers are to be managed and the standards Members and Officers will adhere to. The purpose of this Protocol is not to repeat the Constitutional Articles, Rules and Procedures but to focus on how the relationship between the roles of Cabinet and Overview & Scrutiny will be exercised.

1.4 Officers must act with political impartiality, serving the whole council rather than particular groups or members; as such they serve the Members of the Cabinet and of the Overview & Scrutiny Committees equally.

1.5 In operating its Overview & Scrutiny functions, the Council will have regard to the statutory guidance for this function. This Protocol is one of the measures the Council has adopted to address the following statement in the statutory guidance:

"Effective scrutiny involves looking at issues that can be politically contentious. It is therefore inevitable that, at times, an executive will disagree with the findings or recommendations of a scrutiny committee."

2. Application of the Protocol

2.1 In utilising its powers in 1.2, Overview & Scrutiny will act as a 'critical friend' to the Leader and Cabinet.

2.2 This Protocol applies to all members of Overview & Scrutiny Committees, any Member who may sit on a Scrutiny Task and Finish Group, the Leader of the Council and all Members of the Cabinet.

2.3 All Members will promote the legitimate role of Overview & Scrutiny as outlined in 1.2 above.

2.4 All Members must have regard to the Corporate Plan adopted by Council and its capacity and resources to deliver services efficiently, effectively, to achieve value for money and outcomes. Overview & Scrutiny Committees will be mindful of this in its work planning.

3. Trust

3.1 All Members should promote an atmosphere of openness at Overview & Scrutiny Committee meetings and should strive to ensure that questioning and debate takes place within a climate of mutual respect and trust.

3.2 Overview & Scrutiny Members need to trust that Cabinet Members are being open, honest and fulsome when participating in the enquiries being undertaken.

3.3 Cabinet Members need to trust Overview & Scrutiny Members with information and to trust in their views.

3.4 While Members on the Overview & Scrutiny Committees will come from different political groups including those not aligned with a registered political party, the public must trust that they will act with an independence in determining the work programme of the Committees and in undertaking enquiries identified in the work programmes.

4. Policy Development and Pre-Decision Scrutiny

4.1 The value of early input from Overview & Scrutiny into policy development is recognised. Through early consultation, Overview & Scrutiny can act as a sounding board and a think tank in enquiring into issues coming up on the horizon, bringing in added value. The Leader and Cabinet Members (as well as Officers) will draw to the attention of the relevant Overview & Scrutiny committee, policies and strategies that are being developed or are due for review to enable Overview & Scrutiny to build this into their work programme and thereby have a timely input.

4.2 All policy development will be carried out in a way to promote inclusive dialogue and to capture views of Members' with a report submitted to the relevant Overview & Scrutiny Committee for consideration by the appropriate Member of Cabinet. The Cabinet and relevant (Assistant) Director will consider the views of Overview & Scrutiny members in the development of the policy and provide a response to the Overview & Scrutiny Committee on the recommendations. The detail of the Overview & Scrutiny involvement shall also be included within the body of the report to Cabinet. The Cabinet/Full Council will continue to be responsible for approving and adopting policy whether this accepts all, some or none of the recommendations from Overview & Scrutiny.

4.3 Cabinet Members may wish to request views from Overview & Scrutiny Members on an individual decision before it is taken. The Cabinet Member will be responsible for circulating the details to the relevant Committee Members, through the designated Scrutiny Officer. Utilising this as an option does not exclude the decision from being subject to call-in, however, it will give the Cabinet Member the ability to consider different views and perspectives of a decision to be taken before it is taken.

4.4 Like all parts of the Council, Overview & Scrutiny only has a certain capacity and cannot scrutinise everything. It is for Overview & Scrutiny to determine its work programme, in an informed way, and the views of Cabinet are always welcome. Just as Cabinet is not required to accept all recommendations from Overview & Scrutiny on enquiries undertaken, Overview & Scrutiny is not required to accept recommendations from Cabinet concerning the work programme of the Committee. Both should actively consider the other's recommendations and set out reasons for its decision. Both share the ambition of quality public services for residents in, businesses of and visitors to the Council's area.

5. Holding the Cabinet to Account

5.1 A key role of Overview & Scrutiny is in holding the Cabinet to account for decisions taken and performance of services. In holding the Cabinet to account Overview & Scrutiny Members will:

- Consider decisions taken by the Cabinet, individually and collectively and items on the Notice of Forthcoming Decisions through formal Overview & Scrutiny Committee meetings;
- Review service performance and performance against policy and targets;
- Respect the 'safe space' required by Cabinet Members and senior officers to think freely and offer frank advice to each other (and to receive the same) as they formulate substantial changes to services, responses to important pressing issues or pursue intense negotiations to resolve disputes.
- Be prepared to ask searching questions that provide a constructive challenge for the purposes of undertaking the Overview & Scrutiny function and not solely for individual information gathering purposes;
- Be positive and respectful in their interactions with Cabinet Members. This will include being clear whether the Cabinet Member is specifically invited, sending invitations in a timely way, acknowledging the attendance of the Cabinet Member at the meeting and allowing the Cabinet Member to address the Committee and respond to questions;
- Respond positively to a Cabinet Member if that Member wishes to attend a particular meeting for a given item and they have not been formally invited to confirm whether an invitation is to be extended to them to attend.
- Represent (and amplify) the voices of the public;
- Listen to the responses provided and to assist the Cabinet in identifying areas for further consideration and improvement, where necessary;
- Recognise that not all reviews require recommendations back to Cabinet, if the Overview & Scrutiny Committee were satisfied with the subject matter under consideration

5.2 In return, Cabinet Members will:

- Be willing to be open, honest and engaged in providing responses to constructive challenge and, where 'safe space' to give/receive frank advice is required, what time frame that will be needed for that 'safe space', subject to resources and Officers time;
- Value the importance of Overview & Scrutiny;
- Be supportive of the Overview & Scrutiny process and invite and seek opinion from Overview & Scrutiny Members on decisions to be taken, where appropriate;
- Provide a positive contribution to scrutiny meetings;
- Attend meetings when invited to do so to answer questions and present information:
  - ✓ By way of a direct answer
  - ✓ By reference to published publications

- ✓ By referring a matter to an officer in attendance, if they are not able to respond
- ✓ If an answer cannot immediately be given, by providing a written answer within five working days unless it is not reasonable to do so. If considered unreasonable, an explanation as to why will be given.
- ✓ A combination of the above options.

- Depart the Overview & Scrutiny Committee meeting when that Committee expresses a wish to deliberate on a matter after hearing from the Cabinet Member.

5.3 Continuing dialogue should underpin Overview & Scrutiny enquiries. As such, pre-meetings (or other communication) between Cabinet Members and the Overview & Scrutiny Committee Chairman is encouraged about a forthcoming enquiry. Where possible, Overview & Scrutiny Committee Members will be encouraged to pass questions on the subject of the enquiry to the Cabinet Member/relevant Officer or outside representative in advance of a Committee meeting. As identified elsewhere, after the meeting and where recommendations are made to the Cabinet there should be a discussion between the Cabinet Member and the Chairman of the Overview & Scrutiny Committee.

5.4 The purpose of any pre-meeting (or other communication) referred to above involving a Cabinet Member is not to replace consideration of any agenda item at the published formal meeting, as it is only this setting which the formal business of the Committee can be undertaken.

6. Budget setting and monitoring - The importance of scrutiny

6.1 Budget scrutiny must also be carried out on a rolling programme. Quarterly throughout the year proactive scrutiny assists to inform the next financial year's budget and long term forecast, work can involve:

- Challenging how the budget has been constructed before it is agreed. In particular, probing any assumptions that lie behind the executive's budget strategy, i.e. is the approach incremental or is it starting from a base budget, what are the main savings proposals, how will any growth be funded, are the financial implications of proposals from departments or committees built into the overall budget and has an appropriate level of reserves been set?
- Carrying out budget monitoring activity, for example in areas where expenditure against budget looks to be well above or below forecasts and where growth/savings targets and revised forecasts are involved.
- Undertaking some evaluation of performance and value for money including how it aligns to the Council's Corporate Plan and Priorities.
- Maintaining a 'big picture' view of the financial pressures affecting the council and continuously challenging how these might impact on existing budgets and budget setting in subsequent years.

6.2 It is important to ensure that this work is undertaken throughout the year and not left until the last Budget Report to Overview and Scrutiny Committee, which is for the final consultation purposes prior to Cabinet's recommendations to Full Council. There is insufficient time to properly respond to the proposals or matters raised, due to the statutory timetable to set a budget. The Overview & Scrutiny function in this important process must be timely and add value, at the point Cabinet recommends its detailed budget proposals including the setting the level of Council Tax increase, the comments received from Overview and Scrutiny during the

year will be regarded. The Council's Budget & Policy Framework Procedure Rules sets out the Process for Developing the Budget.

7. Performance Measurement and Reporting

7.1 Measures of performance provide insight into whether value is being achieved and whether improvements are necessary, feasible and affordable. An open sharing of performance data will take place across the Council; including between Cabinet and Overview & Scrutiny. The purpose of reporting general performance data to the Overview & Scrutiny Committee is so that it can undertake scrutiny of it in so far as:

(a) Is the performance monitoring system capturing the right level of data to support delivery of services – and to make recommendations thereon; and

(b) Is there performance as identified in the monitoring data that warrants further enquiry of an activity – and to determine whether and how that enquiry should take place; including it as appropriate in the work programme for that enquiry.

7.2 When enquiring into an individual service or subject, Overview & Scrutiny Committee Members will consider the performance measurements available. They will naturally assess whether this aligns with your own research; particularly the experience of service-users.

7.3 When considering the performance against the Cabinet's approved annual priority list of actions against the Corporate Plan Themes, Overview & Scrutiny will not normally seek to use the process to question that approved list of actions during the year. There are other Council procedures that can and should be used if there is a compelling need to review those actions. Overview & Scrutiny may legitimately have a view on what the annual priority list of actions should be the following year and these can be set out in recommendations to Cabinet.

7.4 Where a service of the Council is being delivered by a third party/outside company or where the matter under enquiry is the responsibility of a partner organisation, they will be encouraged to respond to enquiries from Overview & Scrutiny Committees relevant to the service/enquiry. This will include their own performance data.

8. The Inter-relationship between Cabinet, Audit and Overview & Scrutiny

8.1 It is important that Cabinet receives clear advice within the respective responsibilities of the Overview & Scrutiny Committees and the Audit Committee. It is therefore equally important that the formal audit role of the Audit Committee is left to that Committee. Areas in which financial scrutiny can add value, complementary to the work of the Audit Committee, including the following according to the Local Government Association:

- Reviewing draft (medium-term) financial plans
- Monitoring internal and external audit reports, in order to identify areas where further scrutiny may be beneficial
- Responding to requests from the public for greater clarity on the council's finance and spending plans
- Periodically carrying out post-implementation reviews of large (in terms of revenue or capital) projects

- Challenging decisions related to new service commitments, investments, and previously unbudgeted demands
- Scrutinising the financial implications of greater partnership working
- Keeping a regular 'watching brief' on important matters affecting general resource management.

8.2 The above matters will inform the work planning of Overview & Scrutiny of Council functions and those of partners.

8.3 Cabinet, Audit and Overview & Scrutiny Committees will be guided by advice from the Council's Section 151 Officer on the boundary of responsibility between Audit and Overview & Scrutiny.

9. Overview & Scrutiny Work planning

9.1 Around the start of each Municipal Year, the Overview & Scrutiny committees will hold a work planning workshop. As part of this workshop the views of the relevant Cabinet Member(s) will be inputted alongside the views received from others. The Cabinet's adopted priorities in support of the Corporate Plan will be considered, areas of planned policy development over the relevant Municipal Year (and the next) will be provided and they will be asked to highlight any areas where overview & scrutiny may be specifically invited to assist in work (including Community Leadership areas).

9.2 The Chairmen and Vice-Chairmen of the Overview & Scrutiny Committees will meet quarterly with representatives of the Cabinet in order to ensure ongoing opportunities for Cabinet input into Overview & Scrutiny Committee work plans, ongoing opportunities for Overview & Scrutiny to input into Cabinet policy development or to address performance issues and to build on the positive working relationship between the two functions.

9.3 Overview & Scrutiny Committees may legitimately expect to receive a written report with relevant details for each item on its work programme and, where possible, this report should always be circulated with the agenda for the meeting.

10. Overview & Scrutiny Recommendations to the Cabinet

10.1 Overview & Scrutiny Committees may make recommendations to the Cabinet on functions the Council is responsible for through a formal committee meeting or, say, by way of a Task & Finish Group's Final Report.

10.2 Upon receipt of a recommendation from Overview & Scrutiny, Cabinet Members will:

- Give due consideration to any recommendations or views expressed;
- Provide an explanation for the reasons why recommendations made by Overview & Scrutiny have or have not been pursued.

10.3 Once approved by the relevant Overview & Scrutiny Committee, the views of the Cabinet Member on any recommendations will be sought and included within the report. The Chairman of the Overview & Scrutiny Committee/Task & Finish Group will have the opportunity to meet with the relevant Cabinet Member(s) to discuss the recommendations and the response to those recommendations. The Final Report will then be submitted to the Cabinet for consideration. Should any of the recommendations not be approved or be only partially supported, the Cabinet will provide details of the reason why. The response of

Cabinet to recommendations will be reported to the next available meeting of the Overview & Scrutiny Committee.

11. Urgent Items of Cabinet Business

11.1 The Chairman of the appropriate Overview and Scrutiny Committee may be requested to consent to certain decision being taken by the Cabinet/a Cabinet Member if there is an urgent decision needing to be taken and, due to that urgency, the required notice cannot be given and/or the normal call-in procedures of a decision cannot be applied. The Committee Chairman will consider each request and will not unreasonably withhold consent where the purpose of granting consent is in accordance with the legislative provisions and thereby permit the urgent decision to be made. Notice of the urgency reasons and the consent of the Committee Chairman will then follow.

12. Scrutiny Consideration of Confidential Decisions

12.1 Overview & Scrutiny Committee Members have a right to access exempt information supporting decisions that have been taken in order to allow an effective enquiry of the decision. Should an Overview & Scrutiny Member wish to ask questions at a public Committee meeting around an decision that itself is exempt from publication or is based on information that is so exempt, the press and public may be excluded in accordance with the Council's Constitution and the Cabinet Member will be expected to answer in an open and transparent manner. The exempt information will remain confidential and all elected members and officers who receive that information shall maintain that confidentiality in line with the codes of conduct for Elected Members and Officers.

13. Call-in

13.1 Following the mediation process provided for in the Constitution, and on the basis of a continuing call-in situation, Cabinet Members will be expected to attend any meetings of Overview & Scrutiny committees at which a call-in request in relation to their area of responsibility is being considered. Summarising the requirements of the relevant Procedure Rules in the Constitution, if the relevant Cabinet Member cannot attend, the Leader, should attend in their absence or designate another Cabinet Member to do so. The purpose of their attendance will be to present the decision and the basis for it and to answer questions of fact. The following procedure will take place where call-ins are being considered:

i. One of the Members who called in the decision will speak first.
ii. The Chair will invite the Cabinet Member (decision maker) to respond.

iii. The Committee will then ask questions of the decision maker, who may ask a relevant officer to supply further information if necessary.
iv. The Committee debates the issue and votes on the outcome.

14. Councillor Call to Action

14.1 Cabinet Members will be invited and expected to attend any meetings of Overview & Scrutiny Committees at which a call to action request in relation to their area of responsibility is being considered. A similar process will apply as outlined for Call-In decisions referred to earlier.

14.2 Overview & Scrutiny Committee members are not entitled to draft materials while policy is being developed unless the Cabinet consults the relevant Overview and Resources Committee through the formulation of policy. This is to ensure resources are used in an efficient manner. Cabinet Members and Officers are expected to ensure the Schedule of Forthcoming Decisions is up to date and accurate to assist with this for work programming purposes.

15. Ensuring Compliance with the Protocol

15.1 The Assistant Director Corporate Policy and Support (in his role as the designated Scrutiny Officer) and the Corporate Director – Law and Governance (in their role as Monitoring Officer) will be responsible for overseeing compliance with the Cabinet/Overview & Scrutiny Protocol which should be used by Members to support the wider aim of supporting and promoting a culture of overview & scrutiny. The success of the protocol will be determined by:

- Recognition of the value of overview & scrutiny;
- A clear record of constructive challenge;
- Valuable Overview & Scrutiny reviews that achieve outcomes;
- An open and accountable decision making process.

15.2 With due regard to the Council's Statement on Council development, training will be made available for those on Overview & Scrutiny Committees and those in the Cabinet on this protocol and elements referenced in it including work planning, budget scrutiny, using performance data and key lines of enquiry.

15.3 In the Overview & Scrutiny Annual Report submitted to Full Council each year there will be a section demonstrating the impact of Overview & Scrutiny and effectiveness of the Protocol.

15.4 All Members have agreed to adhere to the Council's Policies and Procedures through the Members' Code of Conduct. Any Member who considers the principles of this Protocol had been compromised will raise the issue with the Leader or relevant Chairman of the Overview & Scrutiny to seek resolution in the first instance. Where appropriate, the Group Leader will be notified. In circumstances, where a suitable resolution has not been reached between Members, the matter can be raised with the Monitoring Officer.

15.5 Any concerns regarding the behaviours between Members and Officers will be dealt with in accordance with the Member Officer Relationship Protocol.

PROTOCOL FOR WEBCASTING OF FORMAL COUNCIL MEETINGS AND FOR PUBLIC FILMING AND RECORDING OF MEETINGS

This protocol is provided to assist the conduct of webcasting and other filming/recording of meetings and to ensure compliance with its obligations under the Openness of Local Government Bodies Regulations 2014, Data Protection Act 2018 and the Human Rights Act 1998.

Webcasting of public council and committee meetings

Introduction

Tendring District Council is committed to being open and transparent in the way it conducts its business. Most formal meetings of the Council are open to the public to attend and there are schemes covering the submission of petitions and questions to the Council meetings as well as schemes for public speaking at meetings of the Planning Committee. However, some residents may not be able to attend the meetings they are interested in. To ensure that those residents can still engage in the democratic process, the Council films and streams, live, many of its meetings ('webcasting'). These can then be watched online as the meeting happens or up to four years after the meeting (the Council retains three full years of recordings and the relevant proportion of the current Municipal Year). In addition to the webcasting service provided by the Council, there are additional legal rights for the public to attend all of our formal public meetings and film, photograph, audio record or report from the meeting using social media or any other means (subject to it not being disruptive). These rights are explained below.

Which meetings are webcast?

The Council aims to webcast all its formal meetings to which the public have a right to attend. This includes meetings of its Council, Cabinet, Audit Committee, Community Leadership Overview & Scrutiny Committee, Human Resources & Council Tax Committee, Licensing & Registration Committee, Planning Committee, Planning Policy & Local Plan Committee, Resources and Services Overview & Scrutiny Committee, Standards Committee, Tendring/Colchester Borders Garden Community Joint Committee and the Premises/Personal Licences Sub-Committee. Meetings of the Miscellaneous Licensing Sub-Committee are not normally webcast as the substantive items on its agenda are usually considered in private session. Meetings of Working Parties and Task and Finish Groups are not webcast.

How do we webcast and how long will the recording be available?

Cameras will be located in the Council's Committee Room at the Town Hall/Princes Theatre to provide the webcasting facility. The Council may also hold hybrid meetings, where some participants join the meeting remotely through a video link. The webcast of meetings will be available on the Council's website for a period of up to four years (the Council retains three full year of recordings and the relevant proportion of the current Municipal Year) and, after that, the recordings will be deleted.

In so far as individuals can be identified visually on a webcast or they can be heard in a recording, Tendring District Council will use that personal information as part of its official authority/public task and in order to promote engagement, service delivery and democratic responsibilities.

When individuals partake in a meeting that is webcast, the Council may share their information with Elected Members, other Tendring District Council Services, other individuals involved in the meeting and the public through its webcast service. We may also provide your information to our suppliers to enable us to deliver this service.

Anyone who does not give their consent to be filmed/recorded as part of a meeting to which this protocol applies must specifically request the Council's Monitoring Officer for an exception to be made

in advance of the meeting. The Monitoring Officer will take a view on a case-by-case basis on whether there is sufficient justification for making an exemption.

In relation to these matters, the Council will normally not show camera footage of members of the public who address the formal meeting of Council, Cabinet or a Committee when presenting petitions, asking questions or as part of a public speaking scheme of the Council.

Audio of their contributions will be webcast and recorded. However, the camera will, during such public involvement in meetings record either a wide angle view of the Councillors attending or of the Chairman of the meeting. A statement to the effect that a member of the public is speaking shall be displayed on the webcast/recording where this is possible by way of explanation of the audio and video element of the webcast/recording at that time.

In addition to the above, the webcast/recording shall normally not show camera footage of the press and public gallery and those there. It cannot be guaranteed that no footage will be webcast or recorded, however, efforts will be made to minimise or avoid entirely that footage.

Are there any meetings or parts of meetings which the Council may not webcast?

Tendring District Council wants to make sure meetings are webcast as far as possible to ensure full engagement with the public. However there are instances where it may not be appropriate to webcast a meeting or parts thereof, for example:

- **When an individual, who is presenting at a public meeting, specifically requests not to appear on the public webcast, and we agree with the request.** We will always seek to accommodate such requests and work with that individual to agree an approach that is satisfactory to all parties. Any such part of a meeting that has not been broadcast will not appear online or be available following the meeting. If you are watching from home you will see a notice appearing on the screen to let viewers know what is happening. If you object to appearing in the webcast, you should make this known in writing prior to the meeting by emailing democraticservices@tendringdc.gov.uk and we will contact you to discuss further.

- **In considering whether or not to record contributions by children at meetings** the Council will, for those aged 16 or over check with the young people themselves that they are content to be filmed and, subject to that, record and broadcast them. For children younger than 16, or those who are otherwise thought vulnerable, we will record only with the consent of the appropriate parent or guardian. If we are in any doubt we will stop the webcast whilst children are speaking. If the children are attending as part of an event involving stakeholder(s) (for example, a school or schools), the Council will expect the stakeholder(s) to have procured the necessary parents' consents.

- **When Councillors at a meeting pass a resolution to exclude the press and public because there is likely to be disclosure of exempt or confidential information**. The Council will always try to conduct its business in public, however from time to time the press and public may be excluded from meetings in accordance with the rules set out in legislation and the Council's Constitution. You will be notified if watching from home that the webcasting has ceased for this part of the meeting and why. The Chairman of the meeting will be asked to confirm that webcasting has stopped before starting to discuss exempt or confidential information.

- **Rights of the public to film, record and photograph at any meeting**

  In addition to the webcasting of meetings hosted by the Council, by law the public also has a right to (subject to it not being disruptive):

  - Film, photograph or audio record a meeting or any part thereof
  - Use any other means (e.g. tweeting, blogging etc.) to enable those not present to see or hear proceedings as they happen or later
  - Report or provide commentary of the proceedings so that the reporting or commentary is available as the meeting takes place or later

Why does the Council allow the public and press to film, record and photograph its meetings?

In 2014, the Openness of Local Government Regulations came into force. This enabled the public to report from all local authority public meetings, in a bid to increase transparency and openness in local decision making.

The provisions only apply to meetings of the Council held in public. You may not film, record or use social media to report from any of the Council's meetings which are private or not open to the public.

Full details of the right of the public to film, record and use social media to report from a meeting, including the exemptions mentioned above, can be found in the guide issued to accompany these regulations.

Are there any other restrictions if I want to report from a meeting?

You do not have to ask us permission in advance to film, record, photograph or report from the meeting using social media. However, we do ask that you respect the following when recording and otherwise reporting from a meeting of the Council:

- Please do not film, photograph or report the views of children, young people, vulnerable people and other members of the public who actively object to being filmed or photographed
- Beware that the common law applies – for example laws on public order offences and defamation
- Please exercise your right to freedom of speech with responsibility – this means respecting the views of others when reporting from a meeting and not disrupting the proceedings
- Please do not edit your filming or recording of the proceedings in a way which may lead to misinterpretation
- Please show respect for those that you are filming or reporting on
- Remember you are only permitted to film, record, photograph or report from the public meeting itself (i.e. from the time it is called to order to the time it concludes). Activity and discussion before or afterwards does not fall within the scope of the regulations
- Filming, recording, photographing or reporting is only permitted of the meeting, not of the public gallery

Signage of webcasting and other filming and recording at meetings

Agendas relating to meetings that may be webcast will include a statement to alert the public to the webcast as well as the rights of the public generally to film, record, photograph and use social media to report from the proceedings, as follows:

WEBCASTING NOTICE

This meeting will be filmed by the Council for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be filmed, except where there are confidential or exempt items, and the footage will be on the website for up to four years (the Council retains three full years of recordings and the relevant proportion of the current Municipal Year). A copy of it will also be retained in accordance with the Council's data retention policy.
The Council will seek to avoid/minimise footage of members of the public in attendance at, or participating in the meeting.
In addition, the Council is obliged by law to allow members of the public to take photographs, film, audio-record, and report on the proceedings at public meetings. The Council will only seek to prevent this should it be undertaken in a disruptive or otherwise inappropriate manner.

If you have any queries regarding webcasting or the recording of meetings by the public, please contact Democratic Services on democraticservices@tendringdc.gov.uk

The Chairman of the meeting will also make an announcement at the beginning of the meeting to make sure everyone understands that the meeting will be webcast and that they may also be filmed by others in the Chamber.

Social Media comments during webcasting

The Council may use generally available platforms to show its webcast footage. When it does so, and if the platform allows for comments to be made by viewers, the Council will provide a message to make it clear that it does not monitor comments and there is no facility to pass those comments on to the attendees of the meeting.

Other provisions

Webcasting

The Chairman of the meeting has the discretion to request the termination or suspension of the webcast if continuing to webcast would prejudice the proceedings of the meeting.

This would include:

(i) Public disturbance or other suspension of the meeting;
(ii) Exclusion of public and press being moved and supported;
(iii) Any other reason supported by the Council/Committee.

Archived webcasts or parts of webcasts shall only be removed from the Council's website if the Monitoring Officer considers that it is necessary because all or part of the content of the webcast is, or is likely to be, in breach of any statutory provision or common law rule, for example Data Protection and/or Human Rights legislation or provisions relating to confidential or exempt information. There may also need to be a temporary removal of webcasts while allegations of breaches are investigated. It is anticipated, however, that meetings will be conducted lawfully and that the need to exercise this power will occur only on an exceptional basis.

Any elected Member who is concerned about any webcast should raise their concerns with the Assistant Director Corporate Policy and Support.

Other filming, recording, photographing or the use of social media for reporting from the meeting

The Chairman of the meeting has the absolute discretion to terminate or suspend filming, recording and use of social media by members of the public during a meeting if, in their opinion, the activity:

- is disrupting the meeting and impeding good decision making;
- is infringing the rights of any members of the public;
- is in danger of repeating a defamatory statement that has been made.

INTRODUCTION

1.1 The Scheme and Title

In exercise of the powers conferred on Tendring District Council under the Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended) the following Scheme of Allowances ("the Scheme") has been approved by the Council, having taken due account of the recommendations of its Independent Remuneration Panel.

The Scheme may be cited as the "Tendring District Council Members' Allowances Scheme", and will be effective from 1st May each year until subsequently amended by the Council.

1.2 Annual Review

In accordance with the above regulations the Scheme payments will be reviewed annually. The review process will involve:-

- Scrutiny by the Independent Remuneration Panel (IRP) of the ongoing and future role and workload of Members and review of the allowances and amounts paid to Members;

  OR

- Application of an appropriate agreed indexation allowance for up to a maximum of 4 years

- The IRP will then make recommendations to the Council in respect of payments considered to be appropriate for subsequent years.

See Appendix 1 for the current scheme and most recent decision by Annual Council.

1.3 Definitions

In the Scheme:-

"Councillor" or "Member"	means an elected Member of Tendring District Council
"Year"	means the year (or part year) ending at the annual Full Council meeting

2.0 THE STRUCTURE OF THE SCHEME

2.1 Member Involvement

This Scheme has been established in a way that reflects the responsibility and time commitment required from Members in the discharge of their duties. It acknowledges their duties to ward constituents, fellow councillors, the population as a whole and to organisations outside the

Council. The extent of these responsibilities, and the commitment they require, is reflected in the extent to which a Councillor is remunerated.

These duties also include undertaking development/training opportunities provided.

2.2 Basic Members' Allowance

Basic Allowance is a flat rate payment made to all Councillors in recognition of their time commitments, including such inevitable calls on their time as meetings with officers and constituents and attendance at political group meetings. It also covers incidental costs such as the use of their homes, telephone costs and peripheral costs such as paper, printer cartridges etc. except that headed paper and business cards will be provided by Tendring District Council on request. The same level of Basic Allowance is paid to all councillors.

This Allowance seeks to ensure that the time and effort taken by Councillors to participate in general core training is recompensed.

2.3 Special Responsibility Allowance

Special Responsibility Allowances will be payable to those councillors who hold positions with additional special responsibility.

Payment to the Leader(s) of Group(s) will also be considered.

The amount of Special Responsibility Allowance (SRA) payable will vary according to the position held, duties undertaken and the level of responsibility involved.

The Allowances seek to also reflect participation in Mandatory Training for particular roles and encourage others to participate in training (e.g. a Committee Chairman).

2.4 Childcare and Dependant Carers' Allowance

The Regulations make provision for the Scheme to include payment of a Childcare and Dependant Carers' Allowance to those councillors who incur expenditure for the care of children or dependant relatives whilst undertaking official duties.

Allowances are also made available to Members who have an express need. The express need shall be in the form of a written declaration by a Member that needs to be lodged with the Assistant Director Corporate Policy and Support

2.5 Travel and Subsistence Allowance

Travel and Subsistence Allowances are also approved by the Council following consideration of recommendations made by the Independent Remuneration Panel in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003.

Travel and Subsistence payments will be made in accordance with the laid down rates in respect of councillors' duties and in respect of approved attendance on approved outside bodies. Rates

approved by the Council, following consideration of the recommendations of the Independent Remuneration Panel are set out in Appendix 2 to this Scheme.

Claims for travel and subsistence costs incurred by Councillors to undertake designated official duties in the District shall be remunerated only in respect of travel (and travel/duty time) within the District.

Claims for travel and subsistence submitted to Democratic Services & Elections by the 2nd working day of each month will be paid in that month otherwise they will be paid the following month. Members should aim to submit claims the month after the mileage etc has been incurred in order to assist effective budgetary control and ensure proper treatment within the correct tax year (in compliance with HMRC requirements). Members will be reminded before the end of the tax year to submit claims relating to that year.

2.6 Attendance at Meetings and Conferences

This allowance is paid in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003. As with travel and subsistence, claims submitted to Democratic Services & Elections by the 2nd working day of each month and will be paid in that month otherwise they will be paid the following month.

2.7 Pensionability of Posts

The Local Government Pension Scheme does not allow councillor posts to be pensionable.

2.8 Allowances for the Chairman and Vice-Chairman

Payment of Allowances to the Council's Chairman and Vice-Chairman are permitted by virtue of Sections 3 and 5 of the Local Government Act 1972 (as opposed to the Local Authorities (Members' Allowances) (England) Regulations 2003). For completeness, in respect of Allowances for Councillors, the Allowances for the Chairman and Vice-Chairman are included in this Scheme for reference.

3.0 CLAIMS AND PAYMENTS

The Scheme will be administered in a way that meets the need for both simplicity and transparency. The following procedures are intended to achieve such objectives.

3.1 There is an expectation that no Councillor will be eligible to claim more than two separate Special Responsibility Allowances. Where a Councillor is eligible for more than two such allowances they may make the specific case to the Assistant Director Corporate Policy and Support (on behalf of the Chief Executive) to seek the views of the Independent Remuneration

Panel as to whether that further Allowance may be paid. The views of the Panel will then be reported to a meeting of the Council to determine whether the further Allowance shall be paid.

3.2 Documenting Entitlement to Allowances

Following the four yearly local elections and the subsequent Annual Council Meetings at which positions on the Council are filled the annual remuneration entitlement in respect of each Councillor will be calculated and documented. In between these events the entitlement will be adjusted as necessary based on the prevailing rates of allowances and appointment to roles identified as eligible for an allowance.

When so requested, Members will inform the Council of the allowances and entitlements for which they wish to claim remuneration. That information will be retained within the Council and will be used to determine the basis of their monthly payment through the Council's payroll system. Arrangements will be made by Officers to ensure that payments are only made in accordance with this Scheme and an express wish for payment from a Member.

3.3 Payment

Payment of allowances will be paid to each Councillor in arrears in twelve instalments on the 20th of each month (or nearest working day thereto).

3.4 Changes/Part-Year Entitlement

Councillors may, during the course of a year, take up or relinquish a position or role identified within this scheme which alters their entitlement to allowances. In such circumstances their entitlement will be adjusted on a pro-rata basis. Councillors should notify the Assistant Director Corporate Policy and Support of such changes as soon as they are known.

If a Councillor's term of office starts or ends other than at the commencement or end of the normal municipal year, entitlement to such remuneration as their responsibilities and commitments attract will also be calculated on a pro-rata basis.

The revised allowance will apply from the day on which the change occurs.

3.5 Option to Forgo Allowances

A Councillor may decide to forgo all or part of the allowance due to him/her. In such circumstances the Assistant Director Corporate Policy and Support should be notified in writing of such decision.

Once in place, limited or non-payment will continue until revoked in writing by the Councillor concerned (NB such revocation shall not be backdated).

3.6 Verification of Travel and Subsistence

In order to maintain the transparency of the scheme, a list of "approved" duties that attract entitlement to travel and subsistence will be maintained and all claims will be verified against this list before payment is made with non-compliant claims being removed.

3.7 Members Responsibility for Reporting Receipt of Allowances

Members are advised to declare the receipt of a members allowance if **any form** of benefit such as income support or housing benefit is being claimed. The rules on how members' allowances are treated may vary depending on the benefit claimed and advice should be sought from the relevant administrating body. For example the rules for those in receipt of Housing Benefit and Council Tax Benefit state that "basic members allowance, special responsibility allowance and conference attendance allowance are treated as earnings except for any expenses which have been wholly, exclusively and necessarily incurred in the performance of their duties". Members are therefore advised that in order to claim expenses in these circumstances receipts and records to justify the expenses incurred must be kept.

4.0 APPROVED DUTIES

The power "to appoint member representatives to attend meetings of appropriate outside bodies" is delegated in Part 3 of the Constitution to the Leader/Portfolio Holders and to Committees with regard to the functions within their jurisdiction. Otherwise such appointments are made by Council at a meeting.

4.1 Approved Duties for Travel and Subsistence Allowance

- **Attendance at Meetings of the Full Council, the Cabinet, Committees and Sub-Committees or formally constituted panels or working parties.**

    - Attendance at the above meetings;
    - Attendance at informal meetings of any of the above meetings;
    - Formal pre-briefings for any of the above meetings;
    - Formal Portfolio Holder or Committee working parties;
    - Any other reasonable or appropriate informal briefing or meetings with officers to prepare for any of the above meetings or discuss any matter relating to the business of the Council as determined by the Chief Executive.

    Expenses are payable to all Members for attendance at Council otherwise it is payable where the Member is appointed to or invited to attend the relevant Cabinet, Committee, Sub-Committee or Working Party. It is not payable where Members choose to attend a meeting and sit in the audience.

    Similarly expenses are payable where Members request or are invited to pre organised meetings with officers to discuss Council business.

- **Attendance by Councillors at site or similar meetings, approved in advance**

- Refers to any site meeting or other similar meeting proposed and approved by any of the groups included in 1) above i.e. Full Council, the Cabinet, Committees and Sub-Committees or formally constituted panels or working parties.

Expenses are payable where Members attend site meetings in relation to meetings of Cabinet, Committees, Sub-Committees or Working Parties to which they are appointed or invited to attend.

- **Attendance at meetings of approved external bodies**

  - Attendance at meetings with approved external bodies at any venue
  - Appointment to an LGA members structure where expenses are not met by the LGA and the appointed member provides feedback.

  The relevant external bodies are those which the Leader has made a formal decision to appoint to. The list is on the Members' page of the intranet.

- **Attendance at Authorised Conferences and/or Seminars**

  - Attendance at conferences authorised in accordance with delegated powers.
  - Attendance at any seminar if reasonable and relevant/appropriate to the responsibilities of individual Members.
  - Attendance at any learning and development opportunity if reasonable and relevant/appropriate to the responsibilities of individual Members.

  Expenses are payable where the training is relevant to the Members' position on the Council. This will include Council arranged sessions such as the regular Members' Briefings. Where Members attend external training out of personal interest, that will not be payable.

- **Attendance at Civic Events**

  - Attendance by the Chairman or Vice Chairman and their consorts at civic events.

  Expenses are payable for the Chairman or Vice Chairman and their consorts undertaking civic duties. They will not be payable for other members attending civic events.

  - *Exceptional Circumstances*

    The Chief Executive may designate as approved duties such events for travel claim purposes where attendance by a Councillor(s) would be in the interests of the

Council and the event otherwise has not been so designated under any of the foregoing provisions.

5.0 APPLICATION OF THE SCHEME

The following principles will apply in the adopted scheme.

5.1 Substitute Members

The scheme does not permit the remuneration for substitute Members, other than in respect of payment for travel and subsistence for substitution at meetings and attendance at any mandatory training. This is on the basis that a Member has been named as a substitute by their Group Leader.

DECISION OF COUNCIL – 24 JANUARY 2023

Council on 24th January 2023 agreed the following scheme with effect from that date or otherwise on 1 April 2022 in respect of Travel Mileage, Dependents' Carers' and Subsistence Allowances. And otherwise approved the Basic and Special responsibility Allowances for 2022/23 and until 2027/28 shall be index linked to the Office of National Statistics estimated public sector regular average weekly earnings growth rate and applied to the Scheme from the following April.

SCHEDULE OF ALLOWANCES

Period 1st April 2026 – end of the Municipal Year

(where a Councillor is entitled to claim three or more Special Responsibility Allowances the expectation is that they will claim only two such Allowances (see para 3.1 above)

Allowances	**Annual Amount**
Chairman of the Council (see paragraph 2.8 above)	£8,811
Vice-Chairman of the Council (see paragraph 2.8 above)	£2,318
Basic Allowance	£7,729
Special Responsibility Allowances	
Leader of the Council	£26,277
Deputy Leader of the Council	£18,513
Portfolio Holder (Cabinet Member who is not the Leader or Deputy Leader)	£12,597
Chairman – Planning Committee	£8,874
Vice Chairman - Planning Committee	£2,248
Members of Planning Committee	£1,421

Chairman – Planning Policy and Local Plan Committee	£3,862
Chairman – Licensing and Registration Committee	£1,775
Chairman – Miscellaneous Licensing Sub-Committee	£888
Members of Licensing and Registration Committee	£386
Chairman – Audit Committee	£5,410
Independent Member of the Audit Committee (subject to approval)	£1,775
Chairman – Community Leadership Overview & Scrutiny Committee	£5,410
Chairman – Resources and Services Overview & Scrutiny Committee	£5,410
Chairman – Human Resources and Council Tax Committee	£3,862
Chairman of the Tendring Colchester Borders Garden Community Joint Committee	£5,410
Member of Tendring Colchester Borders Garden Community Joint Committee	£1,775
Director of a Company (e.g. Freeport East)	£5,410

Group Leader Payments

Payment will be made under the Scheme to a Group Leader who is the leader of any group. The "Group" must comprise 2 or more members.

Group Leaders (who meet the "Group Leader" criteria) with two or three Members only	£237
Group Leaders (who meet the "Group Leader" criteria) with four or more members	£1,198 + £124 per group member

That in relation to any new or revised Committee arrangements, the role of Chairman (or other approved special responsibility) be allocated to the following categories by Council

Category	Relevant Allowance
A	£5,410
B	£3.862
C	£1,775
D	£888
E	Zero

Dependants' Carers' Allowance

This allowance is to reimburse costs incurred for care arranged by the Councillor for a dependant (including care for the Councillor's children) to enable the Councillor to attend formal meetings of the Council or other approved official events.

This allowance is set at the prevailing rate as adopted by the Living Wage Foundation as its 'Real Living Wage' for outside of London. The 'Real Living Wage' rate is £13.45 per hour and is payable for care costs to a maximum of 15 hours per week.

In exceptional circumstances a claim for reimbursement of higher costs incurred may be permitted where the care provided is particularly specialist in nature.

Travel Mileage Allowance

The HMRC considers the following mileage rates as not including an element that is taxable. In view of this the Council has adopted the prevailing HMRC rates at this level as the appropriate rates to use in recompense of costs incurred by Councillors in travel to attend formal meetings and for approved official business of the Council. Where the duty is within the District reimbursement shall be limited to travel/duty time within the District (see paragraph 2.5 above).

Vehicle	**First 10,000 business miles in the tax year**	**Each business mile over 10,000 in the tax year**
Cars and vans	45p	25p
Motor cycles	24p	24p

Bicycles	20p	20p

Passenger payments - cars and vans - 5p per passenger per business mile for carrying another Councillor/officer in a car or van on journeys which are also official business journeys for them.

Subsistence

HMRC subsistence rates (and qualifying conditions) are those adopted by Tendring District Council for its Councillors in this Scheme. The current rates and conditions are as follows (and apply to authorised conferences/events/meetings/visits only):-

Rates are set as follows.

Minimum journey time	**Maximum amount of meal allowance**
5 hours	£5
10 hours	£10
15 hours (and ongoing at 8pm)	£25

As set out in paragraph 2.5 above claims in respect of duties in the District shall be reimbursed only in relation to the time in the District.

Where a scale rate of £5 or £10 is paid and the qualifying journey in respect of which it is paid lasts beyond 8pm a supplementary rate of £10 can be paid to cover the additional expenses necessarily incurred as a result of working late.

A meal is defined as a combination of food and drink and would take a normal dictionary meaning. Where Councillors are required to start early or finish late on a regular basis, the over 5 hour and 10 hour rate, whichever is applicable, can be paid provided that all the other qualifying conditions are satisfied.

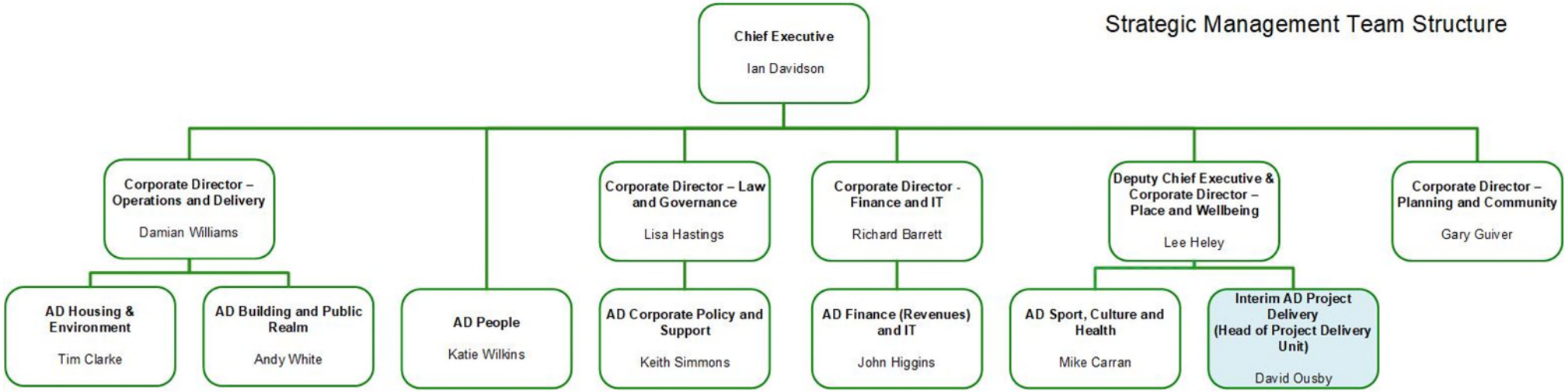
Qualifying conditions - Benchmark scale rates must only be used where all the qualifying conditions are met. The qualifying conditions are:
the travel must be in the performance of a Councillor's duties or to a temporary place of work, on a journey that is not substantially ordinary commuting.
the Councillor should be absent from his normal place of work or home for a continuous period in excess of five hours or ten hours.
the Councillor should have incurred a cost on a meal (food and drink) after starting the journey and retained appropriate evidence of their expenditure.

A Councillor can only be reimbursed for a meal once. If the cost of an evening meal or breakfast is reimbursed on an actual basis, because it is included in the cost of an overnight stay, the Councillor would not also be entitled to a benchmark rate in respect of those meals.

Reimbursement of **ALL** subsistence expenses (including hostel costs) will be based on **actual cost incurred on production of receipts** – maximum amounts will only be paid based on proof of expenditure of that level.

All claims for subsistence must therefore be accompanied by receipts demonstrating expenditure actually incurred. This is to ensure that no National Insurance liability is incurred on payments of such allowances.

Strategic Management Team Structure



Tendring District Council