

# PART 1

## SUMMARY AND EXPLANATION

## **1.1 PURPOSE OF THE CONSTITUTION**

- 1.1.1 Section 37 of the Local Government Act 2000 requires each local authority to prepare, keep up to date and publish a document known as the Council's Constitution.
- 1.1.2 The purpose of the Constitution of Chelmsford City Council is to describe to councillors (also known as members of the Council), officers, and citizens how the Council makes decisions and governs itself.
- 1.1.3 The Constitution brings together in one document information to explain why the Council has a Constitution, how the Council operates, how decisions are taken and citizens' rights in relation to the decisions made by the Council.
- 1.1.4 The Constitution is divided into 16 Articles which set out the fundamental rules which the Council follows in carrying out its business. More detailed information and relevant supporting documents are set out in separate parts of the Constitution.

## **1.2 CONTENTS OF THE CONSTITUTION**

- 1.2.1 Part 1 is a general introduction to and explanation of the Constitution.
- 1.2.2 Part 2 contains the core Articles of the Constitution. Article 1 outlines the key aims and principles on which it is based. Articles 2 to 16 explain how the key parts of the Council operate and how decisions are taken. Those Articles are:

|                   |  |
|-------------------|--|
| <b>Article 1</b>  | Summary and Explanation  |
| <b>Article 2</b>  | Elected Councillors  |
| <b>Article 3</b>  | Citizens and the Council   |
| <b>Article 4</b>  | The Full Council   |
| <b>Article 5</b>  | Chairing the Council   |
| <b>Article 6</b>  | The Leader of the Council  |
| <b>Article 7</b>  | The Cabinet  |
| <b>Article 8</b>  | Overview and Scrutiny  |
| <b>Article 9</b>  | Councillor Advisory Bodies   |
| <b>Article 10</b> | Regulatory Committees  |
| <b>Article 11</b> | Governance Committee   |
| <b>Article 12</b> | Joint Arrangements   |
| <b>Article 13</b> | Officers   |
| <b>Article 14</b> | Decision Making  |
| <b>Article 15</b> | Finance, Contracts and Legal Matters   |
| <b>Article 16</b> | Review, Revision, Suspension, Interpretation and Publication of the Constitution |

- 1.2.3 Part 3 details which part of the Council is responsible for the various Council functions.
- 1.2.4 Part 4 sets out the detailed Rules which govern:
  - a) Meetings of the Full Council, the Cabinet, Overview and Scrutiny Committee and other committees;

- b) Access to information held by the Council;
- c) The production of the Council's budget and its major policies;
- d) The employment of its staff; and
- e) The regulation of the Council's finances and contracts.

- 1.2.5 Part 5 sets out various protocols or codes of conduct which councillors and employees of the Council are expected to observe.
- 1.2.6 Part 6 details the allowances payable to councillors in connection with the performance of their duties.
- 1.2.7 Part 7 describes the structure of the Council's member bodies and the organisational structure of its Services.
- 1.2.8 Changes to the Constitution require the approval of Full Council.

### 1.3 **PRACTICE NOTES**

- 1.3.1 Throughout the Constitution reference is made to "Practice Notes", which provide guidance as to how the rules and procedures within it should be applied. They are accessible using the electronic hyperlinks provided in the Constitution.
- 1.3.2 Practice Notes do not form part of the Constitution. This means that changes in processes and procedures can be made without the delay that would otherwise result by having to seek the approval of Full Council.
- 1.3.4 The Practice Notes are nevertheless important to help explain how the Council operates and takes decisions and the appropriate Cabinet Member or Committee Chair will be consulted before they are finalised.

### 1.4 **HOW THE COUNCIL OPERATES**

#### **Councillors**

- 1.4.1 The Full Council comprises 57 councillors, who are elected every four years and are through this process accountable to residents in their wards. The overriding duty of councillors is to the City of Chelmsford as a whole, but they have a particular duty to all their constituents in their wards, including those that did not vote for them.
- 1.4.2 Councillors have to agree to follow a code of conduct to ensure high standards in the way they carry out their functions. The Code is set out in Part 5.1 of the Constitution. The Governance Committee advises on and oversees adherence to it.
- 1.4.3 All councillors meet together as the Full Council. Meetings of the Full Council are normally open to the public. Here the councillors decide the Council's overall policies and set the annual budget. The Full Council also appoints committees, which perform specific functions on its behalf. The public have the right to attend all such meetings and ask questions or make statements on any matter for which the Council is responsible, provided this is in line with the relevant rules of procedure as set out in Part 4 of the Constitution.

1.4.4 **The Council's staff**

The officers of the Council are its employees. They directly deliver the services provided by the Council within the policies and budgets set by the councillors. Senior officers advise the councillors on what, legally and financially, the Council can and cannot do and ensure that the decisions properly taken by them are put into operation. Officers are politically neutral and are expected to treat all councillors equally. They too have to follow a code of conduct when carrying out their duties as set out in Part 5.2 of the Constitution.

1.5 **HOW DECISIONS ARE MADE**

1.5.1 The Council's ability to make decisions fall into two legal categories, those which may be determined by the Council Leader and Cabinet, known as Executive functions, and those reserved to the Full Council, known as Council functions. These functions have been delegated by-

- a) Full Council to the committees as set out in Part 3.2 of the Constitution;
- b) The Council Leader as set out in Part 3.3 of the Constitution; and
- c) Full Council, committees, the Council Leader and Cabinet to officers as set out in Part 3.4 of the Constitution.

1.5.2 The Council has adopted the 'Leader with Cabinet' model for carrying out its Executive functions. The Constitution has been drawn up on this basis and its main elements emphasise the ultimate authority of the Full Council as a body, the leadership and initiative of the Leader and Cabinet, and the roles of the Overview and Scrutiny Committee. A summary of the roles and functions of these is set out below.

**The Leader & Cabinet**

1.5.3 The Leader and Cabinet are responsible for the Executive functions of the Council, namely most day-to-day decisions. The Cabinet is made up of the Leader of the Council and up to nine other councillors appointed by the Leader.

- a) When major decisions are to be discussed or made these are published in advance, insofar as they can be anticipated. When these major decisions are discussed at the Cabinet the meeting will generally be open to the public, except when exempt or confidential matters are discussed as defined in the Access to Information Rules set out in Part 4.6 of the Constitution. These rules explain the legal basis for when decisions ought to be taken in private and the reasons why.
- b) The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the policy or budget framework, this must be referred to the Full Council as a whole to decide.

**Overview and Scrutiny**

1.5.4 The Overview and Scrutiny Committee, which is appointed by Full Council:

- a) Examines the operation of existing policies to assess whether they are

working well and achieving their aims and recommends changes to the Cabinet and the Full Council if they are not;

- b) Monitors Cabinet decisions and can “call-in” decisions which have been made but not yet implemented and so enables the Committee to consider whether the decision is appropriate. Overview and Scrutiny can also recommend that the Cabinet reconsider the decision;
- c) May be consulted by the Cabinet or the Full Council on forthcoming decisions and on the development of policy.

#### **Other Council bodies**

1.5.5 Full Council has appointed a number of other committees to take the decisions reserved to it to ensure they are timely. These are set out in Part 3.2 of the Constitution.

1.5.6 The Full Council, Cabinet and committees may appoint other councillor bodies to advise on the development of new policy by looking in-depth at specific issues and carrying out consultation on new proposals. These may be permanent panels or appointed for a particular purpose.

1.5.7 The purpose for which these bodies have been established are set out in the Articles in Part 2 of the Constitution and the functions for which they are responsible are set out in Part 3.

### **1.6 CITIZENS' RIGHTS**

1.6.1 Citizens have a number of rights in their dealings with the Council. These include access to information about the Council's services and decisions, and asking questions or making representations before certain decisions are taken. The rights to participate are set out in various parts of the Constitution, the most significant of which are Article 3 and the Access to Information Rules in Part 4.6. More detailed information is also available on the Council's website, [www.chelmsford.gov.uk](http://www.chelmsford.gov.uk)

### **1.7 AVAILABILITY OF THE CONSTITUTION**

1.7.1 The Constitution is published on the Council's website. A copy may be viewed by contacting the Customer Service Centre, in the Civic Centre, Duke Street, Chelmsford.

# PART 2

## ARTICLES OF THE CONSTITUTION

## CONTENTS

|      |                   |  |         |
|------|-------------------|--|---------|
| 2.1  | <b>Article 1</b>  | The Constitution   | Page 2  |
| 2.2  | <b>Article 2</b>  | Elected Councillors  | Page 4  |
| 2.3  | <b>Article 3</b>  | Citizens and the Council   | Page 7  |
| 2.4  | <b>Article 4</b>  | The Full Council   | Page 9  |
| 2.5  | <b>Article 5</b>  | The Mayoralty  | Page 10 |
| 2.6  | <b>Article 6</b>  | The Leader of the Council  | Page 11 |
| 2.7  | <b>Article 7</b>  | The Executive  | Page 12 |
| 2.8  | <b>Article 8</b>  | Overview and Scrutiny  | Page 14 |
| 2.9  | <b>Article 9</b>  | Councillor Advisory Bodies   | Page 15 |
| 2.10 | <b>Article 10</b> | Committees of the Council  | Page 16 |
| 2.11 | <b>Article 11</b> | Governance Committee   | Page 17 |
| 2.12 | <b>Article 12</b> | Joint Arrangements   | Page 18 |
| 2.13 | <b>Article 13</b> | Officers   | Page 20 |
| 2.14 | <b>Article 14</b> | Decision Making  | Page 23 |
| 2.15 | <b>Article 15</b> | Finance, Contracts and Legal Matters   | Page 25 |
| 2.16 | <b>Article 16</b> | Review, Revision, Suspension Interpretation<br>and Publication of the Constitution | Page 26 |

## **2.1 ARTICLE 1 - THE CONSTITUTION**

### **Introduction**

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

### **2.1.2 The Constitution:-**

- a) Describes the structure of the Council;
- b) Sets out the ways in which the Council takes decisions affecting the lives of its citizens;
- c) Describes the Council's commitment to openness, transparency and encouraging community involvement.

### **Aims**

2.1.3 To create a structure that will give councillors an active role in reviewing existing policies and formulating new policy proposals by:

- a) Giving Cabinet members and relevant committees a central role in policy development;
- b) Placing in the hands of the Leader and Cabinet responsibility for implementing policies agreed by the Council; and
- c) Giving the Overview and Scrutiny Committee the role of examining the effectiveness of policies.

2.1.4 To allow flexibility and adaptability in the structure in order to respond to change, both local and national.

2.1.5 To set out how and by which part of the Council those decisions will be made.

2.1.6 To clarify that the Leader and Cabinet are responsible for all decisions, with the exception of the following categories:-

- a) Those which legally must be decided by the Full Council, or an appropriate committee appointed by it.
- b) Those responsibilities delegated to officers.

2.1.7 To give non-Cabinet councillors an active role in influencing decision-making.

2.1.8 To embrace the principle that all councillors act as representatives of the local community.

### **Principles**

2.1.9 The Constitution, in seeking to reinforce local democracy, is founded on the following principles:

- a) The creation of an easily understood system of political management which will provide a clear and accountable leadership balanced with appropriate



mechanisms for challenge.

- b) The establishment of an open and streamlined decision making process within which the views of citizens are given full consideration.
- c) The Council as leader in the local community, working on behalf of the people in the City.

#### **Flexibility and Review**

- 2.1.10 This Constitution is intended to be sufficiently flexible to meet changing needs and will be reviewed regularly as set out in Article 16.

#### **Interpretation of Terms**

- 2.1.11 This Constitution, and all its appendices, is the Constitution of Chelmsford City Council.
- 2.1.12 Throughout this constitution references have been updated to be gender neutral and include any gender including masculine and feminine. However, any references within the constitution or in any supporting documents that refer to the masculine or feminine gender shall also be taken to mean references to any gender including masculine and feminine. Expressions in the singular shall include, where appropriate, the plural.
- 2.1.13 Specific terms are listed in the Glossary along with a short explanation. The Glossary will be made available by the Monitoring Officer, or can be accessed on the Council's website [www.chelmsford.gov.uk](http://www.chelmsford.gov.uk)
- 2.1.14 More detailed explanations about some processes and procedures have been produced, and the relevant Practice Notes are available on the page of the website on which this Constitution appears. Throughout this Constitution where a Practice Note is available this will be noted by way of a footnote.

## **2.2            ARTICLE 2 - ELECTED COUNCILLORS**

### **Composition**

- 2.2.1            The City Council is made up of 57 elected councillors. Elections to the Council are held every four years, unless a vacancy occurs, which will then require a by-election to fill it. Each councillor represents a particular area or “ward” of the City, the areas and boundaries of which are drawn up by the Local Government Boundary Commission and approved by the Secretary of State.

### **Eligibility**

- 2.2.2            To be eligible to stand for election to the Council, a person must be 18 or over and:
- a) Be a registered voter for local elections in the City; or
  - b) Occupied as owner or tenant any land or property in the City for the past 12 months or resided in the area for that length of time; or
  - c) For the past 12 months their principal place of work has been in the City.

### **Terms of office**

- 2.2.3            The terms of office of all councillors last for four years (unless they are elected at a by-election) and begin on the fourth day after the election and end on the fourth day after the date of the next regular election.

### **Roles and functions**

- 2.2.4            As a member of the Council, a councillor represents the interests of the City as a whole and, by serving on one or more of the member bodies within the Council, takes decisions on the policies of and services provided by the Council.

- 2.2.5            The main representational roles of a councillor are to:
- a) Conscientiously and effectively represent the interests of their ward and of individual constituents;
  - b) Deal with constituents’ enquiries and representations, fairly and without prejudice; and
  - c) Contribute to the good governance of the City and actively encourage involvement in the Council’s democratic and decision-making processes.

- 2.2.6            The representational duties and responsibilities of a councillor are to:
- a) Maintain the highest standards of probity in their work in accordance with the Code of Conduct for Councillors set out in Part 5.1 to this Constitution, and other statutory requirements;
  - b) Actively participate in their ward and facilitate the involvement of citizens in matters affecting the ward;
  - c) Meet regularly with local people, particularly those on whom the Council’s activities have a direct impact;
  - d) Assist in the development and review of Council policies, using local knowledge and taking into account the views and needs of local people;

- e) Seek to ensure that local people are informed about matters that concern them including:
  - i. services in their area
  - ii. decisions that affect them
  - iii. the reasons for the Council's decisions
  - iv. the rights of constituents;
- f) Communicate and promote the Council's core values, policies and programmes to improve the quality of life in the City of Chelmsford;
- g) Represent the Council on and participate in the activities of outside bodies to which they are appointed, acting as a communication and representational link between the two and reporting back to the Council on the activities of the body;
- h) Be aware of local and national developments that will affect the roles and duties of elected councillors, the services of the Council and the work of other organisations active in the local community; and
- i) Carry out case work on behalf of constituents and represent their interests to the Council.

### **Rights and duties**

2.2.7 Councillors have such rights of access to such documents, information and buildings of the Council as are necessary to enable them to carry out their functions properly and in accordance with the law.

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

2.2.9 "Exempt" has the meaning defined in the Access to Information Rules in Part 4.6 of this Constitution. The Monitoring Officer shall determine and advise as to when information is considered to be "Confidential".

### **Conduct**

2.2.10 Councillors will at all times observe the Code of Conduct for Councillors in Part 5.1 of this Constitution and the Protocol on Councillor/Officer Relations in Part 5.4. Other Codes and Protocols contained in Part 5 and relevant to councillors should also be observed.

### **Allowances**

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

### **The Mayor**

2.2.12 The Mayor is the "First Citizen" of the City and a member of the Council. The post should not be confused with that of an elected mayor who, under the organisational arrangements adopted in some councils, is the political leader. The Mayor is the ceremonial head of the Council and is elected by

the other councillors at the Annual Meeting to serve for twelve months. The main roles of the Mayor are to represent the Council and the City at official functions both at home and abroad and to chair meetings of the Full Council, in compliance with the Mayoral Party Rules set out in Part 5.5 of the Constitution and their associated Practice Note.

**The Cabinet and discharge of Executive Functions**

- 2.2.13 The Council maintains a list of the powers held by the Leader of the Council and any delegation arrangements made by the Leader to other parts of the Executive. A list of the members of the Cabinet, their portfolios/areas of responsibility, contact details and the wards that they represent is available on the Council's website and on request from the Legal and Democratic Services Manager and may be inspected at the Customer Service Centre, Civic Centre, Duke Street, Chelmsford during normal office hours.

**Register of Members' Interests**

- 2.2.14 The Monitoring Officer maintains a statutory register under the Localism Act 2011 containing details of the financial and other interests of its councillors and for the Parish tier councillors. The Register is: -
- a) updated whenever changes to a councillor's circumstances occur which affect their entry;
  - b) available on line at [www.chelmsford.gov.uk/complaints-about-councillors](http://www.chelmsford.gov.uk/complaints-about-councillors) or may be inspected at the Civic Centre, Duke Street, Chelmsford during normal office hours.

- 2.2.15 Councillors are also required to disclose any interests at other times as explained in the Code of Conduct for Councillors in Part 5.1 of the Constitution.

## **2.3            ARTICLE 3 - CITIZENS AND THE COUNCIL**

### **Citizens' Rights**

**2.3.1            Voting and referendums** - Those on the Register of Electors for the area have the right to:

- a) vote in elections and national referendums for which they are eligible;
- b) contact their ward councillor about any matters of concern to them; and
- c) participate in local referendums.

**2.3.2            Information** - Citizens have the right to:

- a) attend all meetings of the Council and its Cabinet and committees, except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
- b) examine the list of decisions due to be taken by the Cabinet and to find out from it what key decisions will be taken and when;
- c) obtain a copy of the Constitution on payment of a reasonable fee;
- d) see reports and background papers and any records of decisions made by the Council, the Cabinet and other bodies, except where they contain confidential or exempt information; and
- e) inspect the Council's accounts and make their views known to the external auditor.

Any document referred to above is available on the Council's website, [www.chelmsford.gov.uk](http://www.chelmsford.gov.uk), and can be downloaded free of charge.

**2.3.3            Participation** - Citizens have the right to participate in the public question time part of meetings of the Full Council, the Cabinet, and Committees, provided this is in accordance with the appropriate rules of procedure in Part 4 of the Constitution.

**2.3.4            Petitions** - Citizens have the right to submit petitions in accordance with the Council's petition scheme set out in Part 4.3 of the Constitution.

**2.3.5            Complaints** - Citizens have the right to complain about the Council's processes and services by:

- a) Using the Council's complaint procedure as outlined at [www.chelmsford.gov.uk/complaintsprocedure](http://www.chelmsford.gov.uk/complaintsprocedure).
- b) Appealing to the Local Government Ombudsman if they are not satisfied with the outcome from that process.
- c) Using the separate procedure for information requests, by asking for a review as set out at: [www.chelmsford.gov.uk/access-information](http://www.chelmsford.gov.uk/access-information).
- d) Appealing to the Information Commissioner if they are not satisfied with the outcome under c).
- e) Contacting the Monitoring Officer if the complaint is about a breach of the Code of Conduct for Councillors, using the complaint form that can be found at: [www.chelmsford.gov.uk/complaints-about-councillors](http://www.chelmsford.gov.uk/complaints-about-councillors).

**Citizens' Responsibilities**

2.3.6

Citizens are expected to treat councillors and officers with courtesy and respect. They must not wilfully damage or harm things owned by the Council, councillors or officers and should not say or write anything about individual councillors or officers that is slanderous or libellous, and the Council will take appropriate action to protect their legal rights.

## 2.4 **ARTICLE 4 - THE FULL COUNCIL**

### **Definitions**

2.4.1 In this Article, “policy framework” and “budget” have the following meanings:

- a) **Policy framework** - The policy framework means those policies and plans which must be approved or adopted by the Full Council, whether this is set out in legislation or decided by the Council. The current list can be found in the Terms of Reference of the Council in Part 3.

The Chief Executive or Monitoring Officer will advise whether other policies, strategies or plans should be approved or adopted by Full Council.

- b) **Budget** - The budget includes: the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax, decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits, supplementary estimate limits, and approval of other financial documents.

### **Functions of the Council**

2.4.2 Only the Full Council will exercise the following functions:

- a) Adopting and changing the Constitution, other than changes to the Schemes of Delegation that relate to executive functions or those amendments the Legal and Democratic Services Manager is authorised to make under Article 2.16.3;
- b) Approving and adopting the policy framework and budget;
- c) Resolving disputes between the Cabinet and the Overview and Scrutiny Committee on whether a decision accords with a policy or budget agreed by the Full Council;
- d) Appointing and removing the Leader of the Council;
- e) Agreeing and/or amending the terms of reference of councillor bodies, deciding on their composition and making appointments to them;
- f) Appointing representatives to outside bodies (unless the appointment is an executive function or has been delegated to another councillor body);
- g) Adopting a Members' Allowances Scheme;
- h) Changing the name of the area;
- i) Confirming the appointment of the Head of Paid Service, the S151 Officer and the Monitoring Officer, and confirming the dismissal of the statutory officers;
- j) Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills; and
- k) All other matters which by law must be reserved to the Full Council, some of which are detailed in Part 3.

2.4.3

### **Council Meetings**

There are three types of Council meeting: the annual meeting, ordinary

meetings and extraordinary meetings, and they will be conducted in accordance with the Council Procedure Rules in Part 4.1 of the Constitution.



## **2.5            ARTICLE 5 - THE MAYORALTY**

### **Mayoral duties**

- 2.5.1            The Mayor and Deputy Mayor are elected by the Full Council annually and carry out their duties in accordance with the Mayoral Party Rules and associated Practice Note in Part 5.5 of the Constitution.

### **Mayoral functions**

- 2.5.2            The Mayor (or in his absence the Deputy Mayor) has the following functions:
- a) To uphold and promote the purpose of the Constitution and to interpret it where necessary;
  - b) To preside over and chair meetings of the Full Council and ensure that its business is carried out effectively, having regard to the rights of councillors and the interests of the community;
  - c) To ensure that the Full Council meeting acts as a forum for the debate of matters of concern to the local community and where Cabinet Members may be questioned by other councillors;
  - d) Promote public involvement in the Council's activities;
  - e) Attend civic and ceremonial functions; and
  - f) Promote Chelmsford and its people to others and help enhance the image of the City and what it has to offer.

## **2.6            ARTICLE 6 - THE LEADER OF THE COUNCIL**

### **Appointment**

2.6.1            The Leader of the Council will hold office for a four year period starting on the day of their election as Leader at the Annual Council meeting, unless their term of office as a councillor is shorter, in which case their term of office as Leader will be the same as their term of office as a councillor.

2.6.2            The Leader's period of office will cease at an earlier date if:

- a) they resign from the office;
- b) they are disqualified from being a councillor; or
- c) they are removed from office by resolution of the Full Council.

### **Vacancy**

2.6.3            In the event of a vacancy in the position of the Leader, the Deputy Leader shall act in their place until the appointment of a new Leader by the Full Council.

### **Functions of the Leader**

2.6.4            The Leader shall be:

- a) Responsible for all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution, unless otherwise delegated by them.
- b) Responsible for setting out who will exercise Executive functions. Executive functions can be exercised by the Leader, the Cabinet, individual Cabinet Members, committees of the Cabinet, joint arrangements or Officers. Any changes to Part 3 of the Constitution in relation to executive functions will be notified to all councillors.
- c) The only councillor that can exercise the following functions:
  - i. appointment of the Deputy Leader;
  - ii. appointment of the Cabinet; and
  - iii. allocation of portfolio responsibilities.
- d) The Chair of meetings of the Cabinet.

### **Deputy Leader**

2.6.5            The Deputy Leader will be a councillor appointed to the position by the Leader. The Deputy Leader will hold office until the end of the term of office of the Leader, or until:

- a) they are removed from office by decision of the Leader; or
- b) they resign from the office; or
- c) they are disqualified from being a councillor.

### **Functions of the Deputy Leader**

2.6.6            The Deputy Leader will:

- a) Chair meetings of the Cabinet in the absence of the Leader.
- b) Exercise all functions reserved to the Leader in their absence or where they are otherwise unable to act.

## **2.7            ARTICLE 7 - THE EXECUTIVE**

### **Introduction**

2.7.1            The Executive is led by the Leader, and includes members of the Cabinet, any Cabinet committees, and any officers and joint arrangements discharging Executive functions.

2.7.2            The Cabinet is appointed by the Leader to carry out all of the Council's functions, other than those which are the specific responsibility of any other part of the Council, whether by law or under this Constitution. Many decisions will therefore be taken by the Cabinet rather than Full Council.

### **Form and Composition of the Cabinet**

2.7.3            The Cabinet will comprise the Leader and at least two, but not more than nine councillors appointed by the Leader as full time Cabinet Members. The Leader may appoint one or more Cabinet Deputies who shall be entitled to attend Cabinet meetings and, with the approval of the Leader, speak at them. They shall not, however, be regarded as members of the Cabinet and will not answer questions on any matter before the Cabinet, move recommendations or motions, or vote at Cabinet meetings. The appointment of Cabinet Members and Cabinet Deputies or any changes to them will be reported to the Annual Meeting of the Council or the next ordinary meeting of the Council.

2.7.4            Duties and Responsibilities of Cabinet Deputies

- (i)            To work with the relevant Cabinet Member to oversee a specific area or areas of responsibility within the portfolio as allocated by the Leader of the Council
- (ii)           To assist in service development in particular areas of responsibility within the portfolio. This includes detailed investigation and consideration of particular service areas and formulating proposals for formal decision as required by the relevant Cabinet Member.
- (iii)           To undertake tasks in relation to the portfolio as allocated by the Cabinet Member, subject to any specific requirements of the Council's constitution (e.g. Cabinet Deputies may not exercise Executive functions).
- (iv)           To assist the Cabinet Member in monitoring performance in specified areas relating to the allocated portfolio
- (v)           Cabinet Deputies will be invited to attend Cabinet and may, with the consent of the Leader speak. Cabinet Deputies will not, however, be able to vote.

2.7.5            Neither the Mayor nor the Deputy Mayor may be appointed to the Cabinet. No Cabinet Member or Cabinet Deputy may also be a member of the Overview and Scrutiny Committee. There will be no co-option to the Cabinet and substitution arrangements will not apply.

### **Delegation of Functions**

- 2.7.6 The Leader's Scheme of Executive Delegation in Part 3.3.2 describes who and/or which bodies exercise the Executive functions of Chelmsford City Council. All executive decisions must be taken by the Leader of the Council unless they have made arrangements to delegate responsibility for their discharge to any of the following: -
- a) The Cabinet as a whole;
  - b) A committee of the Cabinet (comprising Cabinet Members only);
  - c) An individual Cabinet Member;
  - d) A joint Committee appointed in accordance with the principles in Article 12;
  - e) Another local authority or the Cabinet of another local authority; or
  - f) An officer of the Council.

- 2.7.7 It has been agreed that decisions, other than those specifically delegated to another body or officer, will be taken collectively by the Cabinet.

### **Terms of Appointment for Cabinet Members and Deputies, other than the Leader and Deputy Leader, which are set out in Article 6**

- 2.7.8 Each Cabinet Member and Cabinet Deputy will be appointed by the Leader at the Annual Meeting and will hold office until they: -

are removed from office by decision of the Leader; or  
resign from the office; or  
are disqualified from being a councillor.

- 2.7.9
- a) The Leader will allocate responsibility for functions to such Cabinet
  - b) Members as they think appropriate. These arrangements are set out in
  - c) Part 3.3.2.

### **Proceedings**

- 2.7.10 Proceedings of the Cabinet shall take place in accordance with the Executive Procedure Rules and the Cabinet and Committees Procedure Rules as set out respectively in Parts 4.4 and 4.2 of this Constitution.

### **Responsibility for Functions**

- 2.7.11 In the event of any Executive functions being delegated by the Leader, a list setting out those functions will be maintained by the Monitoring Officer and made available for inspection. Many of these will be delegated as part of the Scheme of Delegations to Officers in Part 3.4 of this Constitution.

### **Non-Cabinet Councillors**

- 2.7.12 Each political group not represented on the Cabinet shall be entitled to nominate persons to speak on specific Cabinet functions at meetings of the Cabinet. Other councillors may also do so in particular circumstances. The arrangements by which non-executive councillors can contribute to Cabinet meetings are set out in Part 4.4.

## **2.8            ARTICLE 8 - OVERVIEW AND SCRUTINY**

### **Role of the Committee**

- 2.8.1            The Council is legally required to discharge certain overview and scrutiny functions to ensure sound decision-making. In order to achieve this, the Council has appointed an Overview and Scrutiny Committee to fulfil all functions under section 9F of the Local Government Act 2000, as amended by the Localism Act 2011 including to:-
- a) Review or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions whether by the Cabinet or another part of the Council or any of its committees;
  - b) Scrutinise the work of other relevant bodies;
  - c) Carry out the functions of the Council's designated Crime and Disorder Committee under the Police and Justice Act 2006;
  - d) Make reports or recommendations to the Full Council or the Cabinet in connection with the discharge of any functions;
  - e) Consider any matter which affects the City or its citizens; and
  - f) Exercise the right to call in for reconsideration executive decisions made but not yet implemented by the Cabinet and officers.

### **Terms of Reference**

- 2.8.2            The membership and specific terms of references for the Committee are set out in Part 3.2.3 (e) "Responsibility for Functions" of the Constitution.

### **Proceedings**

- 2.8.3            The Committee will conduct its meetings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4.5 of the Constitution.
- 2.8.4            The Committee may undertake detailed assessment of proposals through the use of advisory panels known as "Task and Finish Groups", the considerations of which will be reported to the Committee for noting or a decision to be taken.

**2.9                    ARTICLE 9 - COUNCILLOR ADVISORY BODIES**

**Role**

- 2.9.1                The Full Council and the Cabinet are the two arms of decision-making. The Cabinet can take any decisions that are not functions reserved for the Full Council. The Full Council can take decisions set out in Parts 3.1 and 3.2 of the Constitution, and generally does so through the Council Committees referred to in Part 3.2 of the Constitution or officers authorised to do so under the Scheme of Delegation referred to in Part 3.4 .

**Terms of Reference and Composition**

- 2.9.2                The Council, Leader or individual Cabinet Member, Cabinet or a Committee may form advisory panels to assist in formulating new policy or moving forward significant projects. Such Advisory Panels shall:

- a) have the terms of reference as set out in Part 3 of the Constitution; and
- b) not have decision-making powers and any recommendations must be reported to the appropriate councillor body, that is then able to take the decisions required.

**2.10            ARTICLE 10 - COMMITTEES OF THE COUNCIL**

**Role**

- 2.10.1        The Council will appoint the committees described in Part 3 of this Constitution to discharge the functions described in that section.

**Sub-committees**

- 2.10.2        Those committees may establish sub-committees to carry out such functions for which they are responsible as they think appropriate. Sub-committees will cease to exist:

- a) once the purpose for which it was set up has finished;
- b) if the parent body ceases to exist; or
- c) if the parent body decides to abolish it or change its function.

**Membership**

- 2.10.3        All such committees must reflect the political balance of the Council.

## **2.11            ARTICLE 11 - GOVERNANCE COMMITTEE**

### **Role**

2.11.1            The Council will establish a Governance Committee with the following roles and functions:

- a) To maintain the Code of Conduct for Councillors and promote high standards of conduct by the City councillors as well as within Parish Tier Councils.
- b) To deal with the assessment of any complaints regarding breaches of the Council's Code of Conduct, and provide written notice of the findings, for the City Council as well as Parish Tier Councils.
- c) To maintain oversight of the Council's arrangements for dealing with complaints and in particular to consider complaints to the Local Government Ombudsman and receive reports on investigations.
- d) To consider the Annual Whistle-blowing report.
- e) To review annually the Council's use of the Regulation of Investigatory Powers Act 2000 (RIPA) and receive regular updates on the use of these powers.
- f) To grant exemptions from politically restricted posts.
- g) To consider any other reports relating to Council functions where a councillor view or decision is required and which are not already within the terms of reference of other member bodies.
- h) To approve and monitor the Code of Corporate Governance and the Council's Annual Governance Statement with the Audit Committee.

2.11.2            The Committee will report to the Council on any matter on which the Committee is not authorised to take decisions.

### **Terms of Reference**

2.11.3            The membership and specific terms of references for the Committee are set out in Part 3.2.3 (c) "Responsibility for Functions" of the Constitution.



## **2.12            ARTICLE 12 - JOINT ARRANGEMENTS**

### **Principles for joint arrangements**

2.12.1        There are a number of circumstances where the Council or the Cabinet is entitled to carry out certain functions jointly with another local authority. The legal rules differ slightly for Executive and Council functions. However in either case a decision to enter into such arrangements and the basis for those arrangements will be taken through the Council's normal decision-making processes.

2.12.2        Such arrangement may involve –

- a)    The appointment of a joint committee to which all participating authorities can appoint members. Which councillors are appointed to the Committee will be decided by the Cabinet where the work to be undertaken is an Executive function or by the Full Council from its wider membership if a Full Council function.
  - i.    Political balance requirements will not apply to such appointments where an Executive function is to be exercised.
  - ii.   The terms of reference for a joint committee or other methods of joint working will be agreed as part of the decision process.
- b)    Undertaking work for another authority or asking another authority to undertake work for the Council in the circumstances described in relevant legislation.

2.12.3        The Full Council can delegate Council functions to another local authority or, where those functions are the responsibility of the Cabinet of another local authority, to that Cabinet.

2.12.4        The Cabinet can delegate Executive functions to another local authority or the Cabinet of another local authority in certain circumstances.

2.12.5        The decision whether or not to accept such a delegation from another local authority is reserved to the Full Council, or the Cabinet, depending on which body the delegation is to.

### **Access to Information**

2.12.6        The following principles apply:

- a)    The Access to Information Procedure Rules apply to the work of a Joint Committee.
- b)    If all the 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 Council's Cabinet.
- c)    If the Joint Committee contains councillors of an authority that does not operate a cabinet structure, then the Access to Information Rules in part

VA of the Local Government Act 1972 (as amended) will apply.

- d) A decision as to which Council's other Constitutional rules will be used in any joint working arrangements, such as which Committee Procedure Rules will be used, will be decided on a case by case basis as part of the overall decision to enter into such an arrangement.

**Contracting Out**

2.12.7

The Council (in respect of Council functions) and the Cabinet (in respect of Executive functions) may contract out to another body or organisation functions:-

- a) which may be exercised by an Officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994; or
- b) 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.

## **2.13      ARTICLE 13 – OFFICERS**

### **General**

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

### **Statutory Officers**

- 2.13.2      The Council will designate the following posts to the post-holders identified:

| <b>Post</b>                           | <b>Designation</b>   |
|---------------------------------------|--|
| Chief Executive                       | Head of Paid Service under section 4 of the Local Government & Housing Act 1998. |
| Legal and Democratic Services Manager | Monitoring Officer under section 5 of the above act.                             |
| Accountancy Services Manager          | Chief Finance Officer under Section 151 of the Local Government Act 1972.        |

### **Functions of Head of Paid Service**

- 2.13.3      The following functions are the responsibility of the Head of Paid Service:
- a) Overall corporate management and operational responsibility
  - b) Provision of professional advice to all parties in the decision-making process
  - c) Representing the Council on partnership and external bodies

### **Functions of the Monitoring Officer**

- 2.13.4      The following functions are the responsibility of the Monitoring Officer:
- a) Ensuring lawfulness and fairness of decision-making - After consulting the Head of Paid Service and the Chief Finance Officer, the Monitoring Officer will report to the Cabinet if they feel that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Where such a report is issued, the intended proposal or decision will be stopped pending consideration of the Monitoring Officer's report.
  - b) Supporting the Governance Committee - The post-holder will contribute to the promotion and maintenance of high standards of conduct through the provision of support to the Committee.
  - c) Conducting or arranging for investigations into matters of conduct and reporting on them to the Committee.

- d) Proper Officer for access to information - The post-holder will ensure that Cabinet decisions, together with reasons for those decisions and any options considered when reaching them, and relevant officer reports and background papers are made publicly available as soon as possible.
- e) Advising whether Cabinet decisions are within the budget and policy framework. This will be done in conjunction with the Chief Finance Officer in budgetary matters.
- f) Providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and officers, in consultation with the Chief Finance Officer where relevant.
- g) Maintaining the Constitution - The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available to councillors, staff and the public.

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

#### **Functions of the Chief Finance Officer**

2.13.6            The following functions are the responsibility of the Chief Finance Officer:

- a) Ensuring lawfulness and financial prudence of decision-making -  
After consulting the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full 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 Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- c) Contributing to corporate management –  
The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- d) Providing advice -  
The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers on their respective roles.

- e) Give financial information -  
The Chief Finance Officer will provide financial information to the media, Citizens and the community.

**Duty to provide resources to the Monitoring Officer and the Chief Finance Officer**

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

**Conduct**

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

**Employment**

- 2.13.9 The recruitment, selection and dismissal of these statutory officers will comply with the Officer Employment Rules set out in Part 4.8 of this Constitution.

## **2.14**            **ARTICLE 14 - DECISION MAKING**

### **Responsibility for decision making**

- 2.14.1            The Council will issue and keep up to date a record of which part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of the Constitution.

### **Principles of decision making**

- 2.14.2            In making a decision on any given matter, whether it be by councillors or officers collectively or individually, the following principles will be observed:
- a) any action proposed will be in proportion to the desired outcome;
  - b) there will be appropriate consultation and, where necessary, appropriate professional advice will be considered;
  - c) respect for human rights will be observed;
  - d) there will be a presumption in favour of openness; and
  - e) the intended aims and outcomes of the decision will be clearly established and explained.

### **Types of decisions**

- 2.14.3            Decisions reserved to Full Council: Decisions relating to the functions listed in Article 4 will be made by the Full Council and not delegated.

- 2.14.4            Key decisions: A key decision is an executive decision (i.e. one taken by the Leader, the Cabinet or delegated by it to a committee of the Cabinet, a Cabinet Member or an officer) which:

- a) Will result in the Council incurring expenditure or making savings (including generating income) which represents the lower of £200,000 or 20% or more of the relevant expenditure or income budget for a particular service; or
- b) Will have a significant effect on two or more wards in the City of Chelmsford.

A decision taker may only make a key decision in accordance with the requirements of the Access to Information Rules set out in Part 4.6 of this Constitution.

### **2.14.5            Decision making by Full Council**

Subject to Article 2.14.9 below the Full Council meeting will follow the Council Rules set out in Part 4.1 of this Constitution.

### **2.14.6            Decision making by the Cabinet**

Subject to Article 2.14.9 below the Cabinet will follow the Executive Procedure Rules set out in Part 4.4 and the Cabinet and Committees Procedure Rules in Part 4.2 of this Constitution.

**2.14.7 Decisions by the Overview and Scrutiny Committee**

The Overview and Scrutiny Committee will follow the Overview and Scrutiny Rules set out in Part 4.5 and the Cabinet and Committees Procedure Rules in Part 4.2 of this Constitution.

**2.14.8 Decisions by other councillor bodies**

Subject to Article 2.14.9 below all other Council bodies will follow those the Rules set out in Part 4.2 of this Constitution.

**2.14.9 Decision making by Council bodies acting as tribunals**

The Council, a councillor or an officer acting in a quasi-judicial manner or determining/considering (other than for the purpose of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

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

**Financial Management**

- 2.15.1      The management of the Council's financial affairs will be conducted in accordance with the Budget and Policy Framework Procedure Rules set out in Part 4.7 of this Constitution, and the Financial Rules in Part 4.9.

**Contracts**

- 2.15.2      Every contract made by the Council will comply with the Contracts Rules set out in Part 4.10 of this Constitution.

**Legal Proceedings**

- 2.15.3      The Legal and Democratic Service Manager is authorised to take all appropriate actions in relation to legal proceedings, prospective proceedings and potential disputes as set out in the Delegations to Officers in Part 3.4 of the Constitution where the Legal and Democratic Services Manager considers that such action is necessary to protect the Council's interests.

**2.15.4      Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Legal and Democratic Services Manager or such other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given the required authority to some other person.

- 2.15.5      Generally, all contracts entered into on behalf of the Council in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed or made under the Common Seal of the Council in accordance with the requirements of the Contract Rules in Part 4.10 of the Constitution and Article 15.6 below.

**Common Seal of the Council**

- 2.15.6      The Common Seal of the Council shall be kept secure by the Legal and Democratic Services Manager and shall be fixed as necessary to any official document of the Council. The Chief Executive, the Director of Connected Chelmsford and the Legal and Democratic Services Manager, or such other person authorised by the Legal and Democratic Services Manager, shall witness the fixing of the seal to a document. The use of the seal shall be recorded in the Seal Register.

- 2.15.7      A decision of the Council, any part of it or an officer with relevant authority to do so, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents, which in the opinion of the Legal and Democratic Services Manager, should be sealed.



**2.16      ARTICLE 16 - REVIEW, REVISION, SUSPENSION, INTERPRETATION  
AND PUBLICATION OF THE CONSTITUTION**

**Duty to monitor and review the Constitution**

- 2.16.1      The Monitoring Officer will monitor and review the operation of the Constitution to ensure that its aims and principles are given full effect and kept up to date. To this end, the Monitoring Officer will make an annual assessment of the Constitution to identify any weaknesses or improvements in its operation.
- 2.16.2      Any proposals for changes to the Constitution arising from a review of the Constitution, whether it be initiated by an officer or a resolution by a councillor body, will be reported to the Cabinet, which in turn will make recommendations to the Full Council.
- 2.16.3      The Legal and Democratic Services Manager shall have authority to make minor changes to the Constitution. Any minor changes will be subject to consultation with the Chair of Governance Committee.

**Suspension of the Constitution**

- 2.16.4      The Articles of the Constitution may not be suspended.
- 2.16.5      The Procedure Rules of the Constitution, insofar as they relate to the Council, the Cabinet, Overview and Scrutiny Committee and other councillor bodies, may be suspended. A motion to do so may only be moved either:  
by notice given in accordance with the procedure detailed in Council Rule 4.12.1(p) in Part 4.1 of the Constitution; or
- a)      if at least half of the whole number of councillors on the body are present.

**b) Interpretation**

- 2.16.6      The ruling of the Mayor or where The Mayor is not present, the Chair of the meeting, as to the meaning or interpretation of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council, provided such interpretation is consistent with the purposes of the Constitution contained in Article 1.
- 2.16.7      For the avoidance of doubt, this does not prevent a point of order or interpretation being raised and debated by the councillors present, but ultimately the ruling of the Mayor or other Chair of the meeting will be binding.

**Publication**

- 2.16.8      The Monitoring Officer will make the Constitution available to all councillors through the Council's website.
- 2.16.9      The Council will make appropriate arrangements for relevant parts of the

Constitution to be viewed.

## PART 3

# RESPONSIBILITY FOR FUNCTIONS

## CONTENTS

|                 |   |            |
|-----------------|---|------------|
| <b>Part 3.0</b> | <b>Introduction</b>   | Page 4     |
| <b>Part 3.1</b> | <b>Responsibility for Local Choice Functions</b>                      | Page 5-6   |
| <b>Part 3.2</b> | <b>Responsibility for Council Functions</b>                           | Page 7     |
| 3.2.1           | Council Functions   | Page 7     |
| 3.2.2           | Full Council (including Terms of Reference)                           | Page 8-9   |
| 3.2.3           | List of Committees and sub-committees (including Terms of Reference): | Page 10-30 |
| a)              | Audit and Risk Committee  |            |
|                 | i. Treasury Management and Investment Sub-Committee                   |            |
| b)              | Chelmsford Policy Board   |            |
| c)              | Governance Committee  |            |
| d)              | Licensing & Regulatory Committee                                      |            |
|                 | i. Licensing Committee  |            |
|                 | ii. Regulatory Committee  |            |
| e)              | Overview and Scrutiny Committee                                       |            |
| f)              | Planning Committee  |            |
| g)              | Employment Committee  |            |
| h)              | Employment Appeals Committee  |            |
| 3.2.4           |   | Page 31    |
|                 | Advisory Panels/Bodies  |            |
| a)              | Mayoral Working Group   |            |
| b)              | Civic Centre Panel  |            |
| c)              | Chelmsford Garden Village Delivery Board                              |            |
| d)              | Chelmsford Garden Village Community Liaison Group                     |            |
| e)              | Community Funding Panel   |            |
| f)              | Essex Countywide Traveller Joint Committee                            |            |
| g)              | Chelmer Waterside Project Panel                                       |            |
| <b>Part 3.3</b> | <b>Responsibility for Executive Functions</b>                         | Page 42    |
| 3.3.1           | Executive Functions - Introduction                                    | Page 42    |
| 3.3.2           | Leader's Scheme of Executive Delegation including                     | Page 42-44 |
|                 | 3.3.2 (i) Functions of Cabinet Members and Areas of Responsibility    | Page 44-48 |
| 3.3.3           | Terms of reference of the Cabinet                                     | Page 49-50 |
| 3.3.4           | Delegations to Cabinet Committees                                     | Page 51    |
|                 |   | Page 51-52 |

3.3.5 Joint arrangements with other local authorities

**Part 3.4**                      **Scheme of Delegation to Officers**                      Page 53-70

3.4.1                      General power of competence                      Page 53-54

                                 Areas of responsibility and restrictions                      Pages 55-70

3.4.2                      Chief Executive / Section 151 Officer

3.4.3                      Director of Connected Chelmsford

3.4.4                      Legal and Democratic Services Manager

3.4.5                      Director of Public Places

3.4.6                      Public Health and Protection Services Manager

3.4.7                      Director of Sustainable Communities

**Statutory and Proper Officer Appointments**

This is in the form of a Practice Note

**Part 3.0      INTRODUCTION TO “RESPONSIBILITIES FOR FUNCTIONS”**

- 3.0.1      Part 3 of the Constitution sets out which bodies and individuals within the Council are responsible for carrying out particular functions. The following principles will always apply: -
- a) There are three categories of function: Local Choice, Council and Executive functions.
  - b) Council functions (including local choice functions, which the Council decides should be Council functions) may not be exercised by the Cabinet.
  - c) Executive functions may not be exercised by the Full Council.
  - d) All functions not defined in law, or determined by local choice to be Council functions, are executive functions.
  - e) All executive powers of the Council are held by the Leader of the Council at the time they are elected, who may then delegate these onwards. These delegations are included either in the Leader’s Scheme of Delegation in Part 3.3.2, the Officer Scheme of Delegation in Part 3.4 or contained in the minutes of the relevant Cabinet meeting where the delegation was authorised.
- 3.0.2      **Local Choice functions** These are functions which the Council can choose to make either Council functions (and discharge them accordingly) or executive functions which the Executive will then discharge. Responsibilities for these functions are set out in Part 3.2.
- 3.0.3      **Council functions** (legally referred to as Non-executive functions). These may be exercised by the Full Council or be delegated to: -
- A Council Committee or Sub-Committee;
- a) Another authority in whole or part;
  - b) By way of joint arrangements with other authorities; or
  - c) A Council officer.
  - d)
- 3.0.4      Matters delegated to a Committee or Sub-Committee are set out in the Terms of Reference of Part 3.2, and Part 7.1 of the Constitution contains a diagram of the current committee structure.
- 3.0.5      **Executive functions.** The Leader may exercise these or may delegate them to: -
- The Cabinet,
- a) A Cabinet Committee,
  - b) An individual Cabinet Member,
  - c) Another authority or
  - d) An officer.
  - e)
- 3.0.6      The Leader’s delegations are set out in Part 3.3.2 of the Constitution.

**Part 3.1 RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS****3.1.1 Local Choice Functions**

|         | <b>Function</b>  | <b>Decision-making body</b> | <b>Delegation of functions</b>  |
|---------|--|-----------------------------|---|
|         | <b>Miscellaneous</b>   |                             |   |
| 3.1.1.1 | Any function under a local Act, other than a function specified under Regulation 2 of or Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 | Full Council                | To be determined when the function is adopted   |
| 3.1.1.2 | The determination of an appeal against any decision made by or on behalf of the authority  | Full Council                | The appropriate non-executive committee   |
| 3.1.1.3 | Any function relating to contaminated land   | Full Council                | Director of Public Places   |
| 3.1.1.4 | <b>Obtaining Information</b><br>The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land   | Full Council                | Directors of Public Places and Sustainable Communities or the appropriate non-executive committee |
| 3.1.1.5 | The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976  | Full Council                | Directors of Public Places and Sustainable Communities or the appropriate non-executive committee |
|         | <b>Staff</b>   |                             |   |
| 3.1.1.6 | The appointment of any individual and the revocation of any such appointment   |                             |   |
|         | a) to any office other than an office in which they are employed by the authority  | Full Council                | Chief Executive   |
|         | b) to any body other than<br>i) The authority;<br>ii) A joint committee of two or more authorities; or   | Full Council                | Chief Executive   |
|         | c) To any committee or sub-committee of such a body.   | Full Council                | Chief Executive   |

|                           |  |              |                           |
|---------------------------|--|--------------|---------------------------|
| 3.1.1.7                   | The making of agreements with other local authorities for the placing of staff at the disposal of those authorities          | Full Council | Chief Executive           |
| <b>Statutory Nuisance</b> |  |              |                           |
| 3.1.1.8                   | The service of an abatement notice in respect of a statutory nuisance  | Full Council | Director of Public Places |
| 3.1.1.9                   | The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 shall apply in the authority's area | Full Council | Director of Public Places |
| 3.1.1.10                  | The inspection of the authority's area to detect any statutory nuisance  | Full Council | Director of Public Places |
| 3.1.1.11                  | The investigation of any complaint as to the existence of a statutory nuisance   | Full Council | Director of Public Places |



**Part 3.2      RESPONSIBILITY FOR COUNCIL FUNCTIONS**

3.2.1      The Council has established the following committees to discharge Council functions: -

- a)    Audit and Risk Committee
  - i.    Treasury Management and Investment Sub-Committee
- b)    Chelmsford Policy Board
- c)    Governance Committee
- d)    Licensing and Regulatory Committee:
  - i.    Licensing Committee
  - ii.   Regulatory Committee
- e)    Overview and Scrutiny Committee
- f)    Planning Committee
- g)    Employment Committee
- h)    Employment Appeals Committee

3.2.1.2      The terms of reference of these Committees and their delegated powers are set out in Rule 3.2.3. Where the Council has delegated responsibility for the discharge of Council Functions (i.e. non-executive functions) to officers, these are set out in the Scheme of Officer Delegations in Part 3.4.

**List of Council Functions**

3.2.1.3      The functions of a local authority specified in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) by reference to the enactments, directions and circulars including:  
-

- a)    Functions relating to Town and Country Planning and Development Control;
- b)    Functions relating to Licensing and Registration;
- c)    Functions Relating to Health and Safety at Work;
- d)    Functions relating to the name and status of areas and individuals;
- e)    Power to make, amend, revoke, re-enact or enforce byelaws;
- f)    Functions relating to smoke free premises
- g)    Power to promote or oppose local or personal Bills;
- h)    Miscellaneous Functions;
- i)    Any function resulting from enactments passed before 2000.

**3.22      Full Council**

The table below contains the specific terms of reference for the Full Council

| <b>Full Council</b>   |  |   |
|---|--|---|
| <b>Membership</b><br><b>57 Members</b>  | <b>Quorum</b><br>One quarter of the total membership of Full Council | <b>Frequency of meetings</b><br>One Annual Meeting and three ordinary meetings per year |
| <b>Functions/Purpose</b>  |  | <b>Delegations</b>  |
| <p>The functions listed in the table below are specifically reserved to the Full Council. Other functions are delegated to committees and can be exercised by the Full Council if necessary or appropriate.</p> <p><b>Appointments and Approvals</b></p> <ol style="list-style-type: none"> <li>1. Elect the Mayor and Deputy Mayor;</li> <li>2. Appoint and dismiss the Leader;</li> <li>3. Approve the Terms of Reference, procedures for and the appointment of Committees and such other bodies as the Council may decide;</li> <li>4. Appoint the Chair and Vice-Chair and to determine the membership of Council Committees;</li> <li>5. Approve appointments to outside organisations to which the Full Council is entitled to appoint representatives;</li> <li>6. Confirm the appointment of, and dismissal of the Head of Paid Service, S151 Officer and the Monitoring Officer;</li> <li>7. Determine the number of committees, the total number of places and allocate those places in accordance with the political balance requirements; and</li> <li>8. Approve the absence of a member from meetings for more than six months.</li> </ol> <p><b>Budget, Finance and Policy</b></p> <ol style="list-style-type: none"> <li>9. Adopt, with or without amendment, statutory and major non-statutory policies, plans and strategies (the “policy framework”) recommended to it by the Cabinet. The current list of policies, plans and strategies is maintained by the Monitoring Officer;</li> <li>10. Approve, with or without amendment, the Council’s budget and the Council Tax for the City recommended to it by the Cabinet;</li> <li>11. Determine any expenditure proposed by the Executive which is outside of the Budget set by Full Council; and</li> <li>12. Agree a Councillors’ Allowances Scheme (Part 6 of this Constitution).</li> </ol> <p><b>Constitution</b></p> <ol style="list-style-type: none"> <li>13. Adopt, approve, agree changes to, and keep under review the Constitution of the Council;</li> <li>14. Consider reports by the Monitoring Officer and the Chief Finance (Section 151) Officer.</li> </ol> <p><b>Elections</b></p> <p>Consider matters related to elections, including appointing an Electoral Registration Officer and Returning Officer;</p> <p>Consider proposals relating to the status and the variation of District boundaries, electoral divisions, wards and polling districts;</p> <ol style="list-style-type: none"> <li>15. Take decisions on proposals to establish, dissolve or group Parish Councils and fix the number of Parish Councillors;</li> <li>16.</li> </ol> |  |   |

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| <p><b>Employment issues</b></p> <p>17. Appoint and dismiss particular officers in accordance with the Officer Employment Procedure Rules;<br/>Designate officers as the authority's Head of Paid Service, Section 151 Officer and Monitoring Officer and to provide staff;</p> <p>18. Approve the annual Pay Policy Statement.</p> <p>19. <b>Governance</b><br/>Receive reports from the Cabinet and to question it about the performance of its duties;<br/>Resolve disputes between the Cabinet and the Overview and Scrutiny Committee;</p> <p>21. Deal with any issues required under the Council Procedure Rules;<br/>Carry out any other functions required by statute to be discharged by the Council;<br/>Take disciplinary action against any member on advice from the Governance Committee.</p> <p>23. <b>Licensing, Regulatory and Planning</b><br/>Adopt policies under the Licensing Act 2003 and the Gambling Act 2005;<br/>Adopt Statutory Development Plan documents within the Local Development Framework required to be approved by the Full Council.</p> <p>26. <b>Miscellaneous</b><br/>27. Promote and oppose Bills and Orders in Parliament;<br/>Name or confer status on areas or individuals;<br/>Take all decisions for the introduction, amendment or revocation of Byelaws.</p> <p>28.<br/>29.<br/>30.</p> |  |
| <b>Procedures</b>   | <p><b>Part 4.1 – Council Procedure Rules</b><br/> <b>Part 4.7 – Budget and Policy Framework Rules</b><br/> <b>Part 4.8 – Officer Employment Rules</b><br/> <b>Part 4.9 – Financial Rules</b></p> |
| <b>Codes</b>  | <p><b>Part 5.1 – Code of Conduct for Councillors</b></p>   |

### 3.2.3 Committees of the Council

**3.2.3 (a)** The tables below contain the terms of reference of the Council's Committees

| <b>Audit and Risk Committee</b>  |                    |                             |  |
|--|--------------------|-----------------------------|--|
| <b>Membership</b> <ol style="list-style-type: none"> <li><b>Nine</b></li> <li>No more than two members each of the Cabinet and Overview and Scrutiny Committee</li> <li>A maximum of two Independent Persons to attend the meetings of the Audit &amp; Risk Committee as non-voting Members.</li> </ol>  |                    |                             |  |
| <b>Quorum</b>  | <b>Substitutes</b> | <b>Politically Balanced</b> | <b>Frequency of meetings</b>                     |
| <b>THREE</b>   | <b>YES</b>         | <b>YES</b>                  | <b>FOUR PER YEAR</b>                             |
| <b>Functions/Purpose</b>   |                    |                             | <b>Delegations</b>                               |
| <b>Statement of Purpose</b> <ol style="list-style-type: none"> <li>The Audit and Risk Committee is a key component of Chelmsford City Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.</li> <li>The purpose of the Audit and Risk Committee is to provide independent assurance to the members (and others charged with governance in Chelmsford City Council e.g. Governance Committee) of the adequacy of the risk management framework and the internal control environment. It provides independent review of Chelmsford City Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.</li> </ol> <b>Governance, Risk and Control</b> <ol style="list-style-type: none"> <li>To review the Council's corporate governance arrangements against the good governance framework including the ethical framework and consider the local code of governance.</li> <li>To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control.</li> </ol> |                    |                             | Treasury Management and Investment Sub-Committee |

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| <ol style="list-style-type: none"> <li>5. To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.</li> <li>6. To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.</li> <li>7. To monitor the effective development and operation of risk management in the Council.</li> <li>8. To monitor progress in addressing risk-related issues reported to the committee.</li> <li>9. To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.</li> <li>10. To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.</li> <li>11. To monitor the counter-fraud strategy, actions and resources.</li> <li>12. To review the governance and assurance arrangements for significant partnerships or collaborations</li> </ol> <p><b>Internal Audit</b></p> <ol style="list-style-type: none"> <li>13. To approve the Internal Audit Charter</li> <li>14. To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.</li> <li>15. To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.</li> <li>16. To approve significant interim changes to the risk-based internal audit plan and resource requirements.</li> <li>17. To make appropriate enquiries of both management and the Chief Assurance Executive to determine if there are any inappropriate scope or resource limitations.</li> <li>18. To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the Chief Assurance Executive. To approve and periodically review safeguards to limit such impairments.</li> <li>19. To consider reports from the Chief Assurance Executive on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include: <ol style="list-style-type: none"> <li>a) Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work</li> </ol> </li> </ol> |  |
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| <p>b) Regular reports on the results of the Quality Assurance and Improvement Programme</p> <p>c) Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards and Local Government Application Note, considering whether non-conformance is significant enough that it must be included in the Annual Governance Statement.</p> <p>20. To consider the Chief Assurance Executive's annual report:</p> <p>a) The statement of the level of conformance with the Public Sector Internal Audit Standards and Local Government Application Note and the results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions of internal audit.</p> <p>b) The opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the Annual Governance Statement.</p> <p>21. To consider summaries of specific internal audit reports as requested.</p> <p>22. To receive reports outlining the action taken where the Chief Assurance Executive has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.</p> <p>23. To contribute to the Quality Assurance and Improvement Programme and in particular to the external quality assessment of internal audit that takes place at least once every five years.</p> <p>24. To consider a report on the effectiveness of internal audit to support the Annual Governance Statement as required to do so by the Account and Audit Regulations (Regulation 6) requires an annual review of the effectiveness of the Council's system of internal audit. The findings of the review of the effectiveness must be considered as part of the Committee's view of the system of internal control.</p> <p>25. To provide free and unfettered access to the audit and risk committee chair for the Chief Assurance Executive, including the opportunity for a private meeting with the Committee.</p> <p><b>External Audit</b></p> <p>26. To support the independence of external audit through consideration of the external auditor's annual assessment of</p> |  |
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| <p>its independence and review of any issues raised by the PSAA.</p> <p>27. To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.</p> <p>28. To consider specific reports as agreed with the external auditor</p> <p>29. To comment on the scope and depth of external audit work and to ensure it gives value for money</p> <p>30. To commission work from internal and external audit.</p> <p>31. To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.</p> <p><b>Financial Reporting</b></p> <p>32. To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statement or from the audit that need to be brought to the attention of the Council.</p> <p>33. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.</p> <p><b>Accountability Arrangements</b></p> <p>34. To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks; financial reporting arrangement, and internal and external audit functions.</p> <p>35. To report to full Council on a regular basis the committee's performance in relation to the terms of reference and effectiveness of the committee in meeting its purpose.</p> <p>36. To publish an annual report on the work of the committee.</p> |   |
| <b>Procedures</b>  | <p><b>Part 4.2 – Cabinet and Committee Procedure Rules</b></p> <p><b>Part 4.9 – Financial Rules</b></p> |
| <b>Codes</b>   | <p><b>Part 5.1 – Code of Conduct for Councillors</b></p>  |

**3.2.3 (a)(i)**

| Treasury Management and Investment Sub-Committee   |  |                         |                          |
|--|--|-------------------------|--------------------------|
| Membership: Seven Members  |  |                         |                          |
| Quorum   | Substitutes  | Politically<br>Balanced | Frequency of<br>meetings |
| THREE  | YES  | YES                     | THREE PER<br>YEAR        |
| Functions/Purpose  |  | Delegations             |                          |
| 1. To comment on the draft Treasury Management and Investment Strategies and make recommendations to Cabinet on those Strategies.<br><br>2. To receive reports on Treasury Management and Investment activities and performance three times per year.<br><br>3. To report to the Audit and Risk Committee on any breaches of Treasury Strategy, Investment Strategy or Treasury Management Procedures.<br><br>4. On occasion of urgent matters to agree changes to the Treasury Management or Investment Strategy without reference to Full Council.<br><br>5. In the light of performance and market conditions recommend changes to either strategy going forward.<br><br>6. The sub-committee is not intended to be a consultee to individual investment decisions. |  | N/A                     |                          |
| Procedures   | Part 4.2 – Cabinet and Committee Procedure Rules<br><br>Part 4.9 – Financial Rules |                         |                          |
| Codes  | Part 5.1 – Code of Conduct for Councillors   |                         |                          |



**Part 3.2.3 (b)**

| <b>Chelmsford Policy Board</b>   |  |                    |                             |                              |
|--|--|--------------------|-----------------------------|------------------------------|
| <b>Membership</b>  | <b>Quorum</b>  | <b>Substitutes</b> | <b>Politically Balanced</b> | <b>Frequency of meetings</b> |
| <b>THIRTEEN</b>  | <b>FIVE</b>  | <b>YES</b>         | <b>YES</b>                  | <b>SIX PER YEAR</b>          |
| <b>Functions/Purpose</b>   |  |                    |                             | <b>Delegations</b>           |
| <ol style="list-style-type: none"> <li>1. To review existing and develop new policies and strategies, including statutory development plans, in relation to any function for which the City Council is responsible and to make recommendations to the Cabinet and Council, as appropriate.</li> <li>2. To establish working groups to examine in detail existing policies, develop new ones and to make recommendations on new or revised policies to the Chelmsford Policy Board</li> <li>3. To consider draft new policies and strategies, including statutory development plans, for the purposes of engagement and formal consultation, as appropriate.</li> <li>4. To recommend to the Cabinet approval and adoption of the final versions of Masterplans, Supplementary Planning Documents and other non-statutory planning and housing policy documents.</li> <li>5. To consider responses to any formal policy related consultations from external bodies which the relevant Director considers should be referred to the Policy Board</li> </ol> <p>The above provisions do not prevent Cabinet or Council adopting new or revised policies that have not been reviewed by the Chelmsford Policy Board.</p> |  |                    |                             |                              |
| <b>Procedures</b>  | <b>Part 4.2 – Cabinet and Committees Procedure Rules</b> |                    |                             |                              |
| <b>Codes</b>   | <b>Part 5.1 – Code of Conduct for Councillors</b>        |                    |                             |                              |

**3.2.3 (c)**

| <b>Governance Committee</b>   |                                      |   |   |
|---|--------------------------------------|---|---|
| <b>Membership</b> <ol style="list-style-type: none"> <li><b>Seven</b> councillors of the City Council;</li> <li>Three co-opted Parish Tier Councillors appointed by the Parish Tier Councils in the City Council's area;</li> <li>Between 2-4 Independent Persons who can participate but cannot vote. An Independent Person must be in attendance and provide their views in relation to any standards hearing that takes place.</li> <li>Parish Tier Councillors can participate in the debates of the Committee but cannot vote on decisions to be taken. At least one Parish Tier Councillor to be invited to attend when dealing with any complaint against a Parish Tier Councillor;</li> <li>The following Councillors may not be members of the Committee <ol style="list-style-type: none"> <li>the Mayor;</li> <li>the Deputy Mayor;</li> <li>the Leader of the Council;</li> </ol> </li> <li>No more than two members of the Cabinet may be members of the Committee at any time.</li> </ol>   |                                      |   |   |
| <b>Quorum</b><br><br><b>THREE</b><br>of those members who can vote (Also note the requirements relating to standards hearings for an independent person to be in attendance and a parish tier representative where necessary)   | <b>Substitutes</b><br><br><b>YES</b> | <b>Politically Balanced</b><br><br><b>YES</b> | <b>Frequency of meetings</b><br><b>AT LEAST FOUR PER YEAR</b> |
| <b>Functions/Purpose</b>  |                                      |   | <b>Delegations</b>  |
| <b>Roles and responsibilities of the Committee related to the Council's Code of Conduct</b> <ol style="list-style-type: none"> <li>Promote and maintain high standards of conduct by councillors, whether Co-Opted or not, by: - <ol style="list-style-type: none"> <li>Assisting councillors and Co-Opted Councillors to observe the Code of Conduct for Councillors;</li> <li>Hearing and determining complaints about councillors and Co-Opted councillors referred to it by the Monitoring Officer;</li> <li>Advising the Council on the adoption or revision of the Code of Conduct for Councillors;</li> <li>Advising the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council;</li> <li>Informing Full Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints;</li> <li>Receiving referrals from the Monitoring Officer into allegations of misconduct in accordance with the authority's assessment criteria;</li> </ol> </li> </ol> |                                      |   |   |

- g) Receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Code of Conduct for councillors; and
  - h) Advising and assisting Parish Council(s) and councillors to maintain high standards of conduct and to make recommendations to Parish Councils on improving standards or actions following a finding of a failure by a Parish Councillor to comply with the Code of Conduct.
2. To conduct a Hearing into an allegation that a councillor or Co-opted councillor has breached the Code of Conduct.<sup>1</sup>
- 2.1 To make one of the following findings: -
- a) That the councillor has not failed to comply with the Code of Conduct and no further action needs to be taken in respect of the matters considered at the Hearing;
  - b) That the councillor has failed to comply with the Code of Conduct but that no further action needs to be taken in respect of the matters considered at the Hearing;
  - c) That the councillor has failed to comply with the Code of Conduct and that a sanction and/or an informal resolution should be imposed; or
  - d) The committee may impose any action or combination of actions available to it, or impose any informal resolution or combination of informal resolutions as are available to it by law or policy.
- 2.2 After making a finding the committee shall, as soon as reasonably practicable, provide written notice of its findings and the reasons for its decision to the Councillor and complainant.
3. To grant dispensations to councillors: -
- 3.1 After consultation with the Independent Person pursuant to Section 33(2) (b), (c) and (e) of the Localism Act 2011.
- 3.2 Hear and determine appeals against a refusal to grant dispensations by the Monitoring Officer pursuant to S33(2)(a) and (d) of the Localism Act 2011.
4. Assistance and training for members of the authorities: -
- 4.1 Advising, training or arranging to train councillors and Co-Opted councillors on matters relating to the Code of Conduct for Councillors.

### **Other Roles and Responsibilities**

5. To maintain oversight of the Council's arrangements for dealing with complaints and in particular: -

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<sup>1</sup> See also: [Practice Note on Hearings, available on the Council's website.](#)

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|                          | <p>5.1 To consider complaints to the Local Government Ombudsman where a councillor decision is required and to receive reports on Local Government Ombudsman investigations.</p> <p>5.2 To consider the Annual Whistle-blowing report.</p> <p>6. To review annually the Council's use of the Regulation of Investigatory Powers Act 2000 (RIPA).</p> <p>7. To approve and monitor the Code of Corporate Governance and the Council's Annual Governance Statement with the Audit and Risk Committee.</p> <p>8. To grant exemptions from politically restricted posts.</p> <p>9. To consider any other reports relating to non-executive functions where a councillor view or decision is required.</p> <p>10. To approve under Section 85 of the Local Government Act 1972 the absence of a councillor for more than six months if:</p> <p>(a) the Governance Committee is satisfied that there is a valid reason for that absence, and</p> <p>(b) no meeting of the Council is scheduled before the date on which the councillor would be disqualified for failure to attend a meeting of the authority for six consecutive months.</p> |
| <b>OTHER INFORMATION</b> | <p>A maximum of two Independent Persons are to be recommended for appointment by the Governance Committee for approval by Full Council. The Independent Persons will be invited to attend the meetings of the Governance Committee when dealing with complaints under the standards regime, but will not be members of the Committee.</p> <p>Parish/town representatives are appointed for a 4 year term by the Governance Committee. Should a parish/town councillor resign from office before this period they may continue to serve as a parish/town council representative on the Governance Committee for up to 12 months after they cease to be a parish/town councillor.</p>   |
| <b>Procedures</b>        | <p><b>Part 4.2 Cabinet and Committee Procedure Rules</b></p> <p><b>Part 4.6 Access to Information Procedure Rules</b></p> <p><a href="#"><u>Practice Note on Hearings</u></a></p>   |
| <b>Codes</b>             | <p><b>Part 5.1 – Code of Conduct for Councillors</b></p>  |

**3.2.3 (d)(i)**

| <b>Licensing and Regulatory Committee<br/>(i) Licensing Committee</b>  |               |                    |                                 |   |
|--|---------------|--------------------|---------------------------------|---|
| <b>Membership</b>  | <b>Quorum</b> | <b>Substitutes</b> | <b>Politically<br/>Balanced</b> | <b>Frequency of<br/>meetings</b>  |
| <b>THIRTEEN</b>  | <b>THREE</b>  | <b>YES</b>         | <b>NOT REQUIRED<br/>BY LAW</b>  | <b>AS REQUIRED</b>  |
| <b>Functions/Purpose</b>   |               |                    |                                 | <b>Delegations</b>  |
| <ol style="list-style-type: none"> <li>1. To exercise all the Licensing functions of a licensing authority under the Licensing Act 2003 or any regulations or orders made under that Act except: -               <ol style="list-style-type: none"> <li>a) approving the Authority's Licensing Statement under section 5 of the Act; and</li> <li>b) referring licensing matters to another Committee under section 7(5) of the Act.</li> </ol>               These functions will include the consideration, determination and review of applications for Personal Licences, Premises Licences, Club Premises Certificates and Temporary Event Notices in relation to the supply of alcohol, the provision of regulated entertainment and late-night refreshment where there have been relevant representations in relation to those applications).             </li> <li>2. To promote the four licensing objectives:               <ol style="list-style-type: none"> <li>a) the prevention of crime and disorder</li> <li>b) public safety</li> <li>c) the prevention of public nuisance</li> <li>d) the protection of children from harm</li> </ol> </li> <li>3. To exercise all the functions of the Council in respect of Small Society Lotteries.</li> <li>4. To determine those matters within its terms of reference which are to be delegated to officers of the Council for action.</li> <li>5. To establish any sub-committees which it considers necessary and determine the powers and functions to be delegated to such sub-committees and, if appropriate, to officers of the Council in respect of such sub-committees.</li> <li>6. To receive reports, from time to time, on the needs of the tourist economy, the cultural strategy, the employment situation and the need for new investment and employment for the City of Chelmsford and to ensure that these are reflected in the Committee's considerations.</li> </ol> |               |                    |                                 | Licensing Act 2003<br>Sub-Committee other than those delegated to the Public Health and Protection Services Manager in accordance with the Officers' Scheme of Delegation |

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| <p>7. To deal with all matters relating to the discharge by the Council of its Licensing functions under the Gambling Act 2005.</p> <p>8. All matters pursuant to Part 1 of the Health Act 2006 and Smoke-free (Premises and Enforcement) Regulations.</p> |   |
| <b>Procedures</b>  | <b>Part 4.2 – Cabinet and Committee Procedure Rules</b> |
| <b>Codes</b>   | <b>Part 5.1 – Code of Conduct for Councillors</b>       |

**3.2.3 (d)(ii)**

| <b>Licensing and Regulatory Committee<br/>(ii) Regulatory Committee</b>  |               |                    |                                 |   |
|--|---------------|--------------------|---------------------------------|---|
| <b>Membership</b>  | <b>Quorum</b> | <b>Substitutes</b> | <b>Politically<br/>Balanced</b> | <b>Frequency of<br/>meetings</b>  |
| <b>THIRTEEN</b>  | <b>FIVE</b>   | <b>YES</b>         | <b>YES</b>                      | <b>SEVEN PER YEAR</b>   |
| <b>Functions/Purpose</b>   |               |                    |                                 | <b>Delegations</b>  |
| <p>The regulatory responsibilities of this Committee (insofar as they are functions of this Council, including non-Licensing Act 2003 and registration functions) are described in the Local Authorities (Functions and Responsibilities) (England)(Regulations) 2000 as amended, other than those delegated in accordance with the Officers' Scheme of Delegation.</p> <p>These functions include:</p> <ol style="list-style-type: none"> <li>1. Considering and determining any applications, renewals, regulatory matters and other matters which arise from the following functions and have been referred to the Committee by the relevant Director: - <ol style="list-style-type: none"> <li>a) acupuncture, tattooing, ear-piercing and electrolysis;</li> <li>b) pet shops, zoos, dog breeding and other animal welfare functions;</li> <li>c) betting, gaming and lotteries;</li> <li>d) food hawkers and game dealers;</li> <li>e) hackney carriage and private hire vehicles, drivers and operators;</li> <li>f) house to house and street collections;</li> <li>g) late night refreshment houses;</li> <li>h) entertainments and indoor sports;</li> <li>i) sex establishments;</li> <li>j) market and street trading;</li> <li>k) theatres and cinemas;</li> <li>l) food safety;</li> <li>m) street trading;</li> <li>n) placing of tables, chairs and umbrellas on the highway under section 15 of Part VIIA of the Highways Act 1980.</li> </ol> </li> <li>2. Exercising the Council's regulatory functions under health and safety legislation;</li> <li>3. Determining any appeal against any decision made by or on behalf of the Council, provided members who have been involved with the original decision take no part in the consideration of any appeal against it;</li> </ol> |               |                    |                                 | <p><b>To officers in accordance with the Scheme of Delegation at Part 3.4</b></p> |

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| <p>4. Considering objections to Traffic Orders and Footpath Orders proposed by the Council and to: -</p> <ul style="list-style-type: none"> <li>a) confirm an Order without amendment;</li> <li>b) confirm an Order with only minor amendments that would not negate the effect or intention of the Order; or</li> <li>c) not confirm an Order but refer it to the appropriate officers with or without suggested amendments.</li> </ul> <p>Having considered the views of the Committee, the officers may confirm an Order either as advertised or amended to the extent that it would be less onerous. Where an amendment would add to or make more onerous the original Order, the amended proposal shall be advertised in the normal way;</p> <p>5. Exercising non-executive functions of the Council in relation to the protection of the environment;</p> <p>6. To receive reports from time to time on the needs of the tourist economy, the cultural strategy, the employment situation and the need for new investment and employment for the City of Chelmsford and to ensure that these are reflected in the Committee's considerations, particularly the adoption or amendment of any policies related to the functions of the committee.</p> <p>7. To adopt, approve or amend any policy related to the functions of the Committee other than those that are required to be approved by Full Council by statute or for constitutional reasons.</p> <p>8. Considering the results of consultation on proposals to designate areas where the consumption of alcohol would be restricted and to make recommendations to the Council accordingly.</p> |  |
| <b>Procedures</b>  | <b>Part 4.2 – Cabinet and Committees Procedure Rules</b> |
| <b>Codes</b>   | <b>Part 5.1 – Code of Conduct for Councillors</b>        |



## 3.2.3 (e)

| <b>Overview and Scrutiny Committee</b>  |                    |                             |   |
|---|--------------------|-----------------------------|---|
| <b>Membership</b> <ol style="list-style-type: none"> <li><b>Thirteen</b></li> <li>No member of the Cabinet may be a member of the Committee.</li> <li>The Committee may co-opt persons from outside the Council to assist it with a particular review. Those persons shall be appointed only for the duration of the review and will not have the right to vote.</li> <li>The Committee's chair will normally be a member of an opposition group on the Council. The vice chair will normally be a member of the majority group.</li> </ol>   |                    |                             |   |
| <b>Quorum</b>   | <b>Substitutes</b> | <b>Politically Balanced</b> | <b>Frequency of meetings</b>  |
| <b>FIVE</b>   | <b>YES</b>         | <b>YES</b>                  | <b>AT LEAST FOUR TIMES A YEAR</b>   |
| <b>Functions/Purpose</b>  |                    |                             | <b>Delegations</b>  |
| <p>The purpose of the Overview and Scrutiny Committee ("the Committee") is to:</p> <ol style="list-style-type: none"> <li>act as a channel for public involvement in the activities of the Council and other bodies operating in the City;</li> <li>oversee the proper and efficient administration of the Council;</li> <li>review the effectiveness of the Council's work and services; and</li> <li>support and complement the activities of the Cabinet, whilst at the same time scrutinising them and offering constructive comment or advice where appropriate.</li> </ol> <p>Within that general description the Committee will:</p> <ol style="list-style-type: none"> <li>monitor the performance of the Council's services, carry out detailed reviews of them where considered necessary and report any resulting recommendations to the Cabinet;</li> <li>review the decisions, decision-making processes and activities of the Executive, and in respect of the Committee's own work to ensure that they comply with the requirements of the Constitution and the policies of the Council;</li> <li>exercise the right to call in decisions made by the Cabinet but not yet implemented;</li> <li>scrutinise and monitor the activities and performance of relevant external bodies (including health), liaising with them where necessary, invite reports from them and carry out detailed assessments of the effectiveness of services provided by them if any apparent shortcomings are identified;</li> <li>scrutinise the work of the community safety partnership (Safer Chelmsford) and the partners who comprise it, insofar as their activities relate to the partnership itself, and exercise all the other</li> </ol> |                    |                             | <p><b>Task and Finish Groups</b> - these are not decision-making bodies, and all recommendations from Task and Finish Groups stand referred to the Overview and Scrutiny Committee. The Terms of Reference for Task and Finish Groups are in the table below.</p> |

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| <p>functions of a crime and disorder committee pursuant to Section 19 of the Police and Justice Act 2006;</p> <p>6. consider Councillor Call for Action requests following agreement by the Chair and Vice-Chair of the Committee after consultation with the Director of Connected Chelmsford;</p> <p>7. review the Council's handling of or responses to petitions where the petition organiser is dissatisfied with the action taken.</p> <p>The Committee will also: -</p> <ul style="list-style-type: none"> <li>i. consider complaints to the Local Government Ombudsman and make recommendations where a member decision is required;</li> <li>ii. provide opportunities for officers to acquaint members with the operation of the Council.</li> </ul> |  |
| <p><b>Procedure Rules</b></p>  | <p><b>Part 4.2 – Rules Common to Cabinet and committees</b><br/> <b>Part 4.3 – Petitions</b><br/> <b>Part 4.5 – Overview and Scrutiny Procedure Rules</b><br/> <b>Part 4.6 – Access to Information Procedure Rules</b></p> |
| <p><b>Codes</b></p>  | <p><b>Part 5.1 – Code of Conduct for Councillors</b></p>   |

| <b>Overview and Scrutiny Task and Finish Groups</b>  |   |                                       |   |
|--|---|---------------------------------------|---|
| <b>Membership</b> <ol style="list-style-type: none"> <li>1. At least two and no more than nine councillors.</li> <li>2. If not already appointed by the Committee on the setting up of the Task and Finish Group, each Group shall elect a chair or vice chair from among its councillor membership.</li> <li>3. Each Group may include (i) councillors who are not members of Cabinet or the Overview and Scrutiny Committee and (ii) non-voting persons from outside the Council who have a particular knowledge of or interest in the subject matter for which the Group is responsible. Those persons shall be appointed only for the duration of the review and will not have the right to vote.</li> </ol> |   |                                       |   |
| <b>Quorum</b>  | <b>Substitutes</b>  | <b>Politically Balanced</b>           | <b>Frequency of meetings</b>                                      |
| <b>TWO</b>   | <b>NO</b>   | <b>YES,<br/>as far as practicable</b> | <b>The panel shall decide the dates and times of its meetings</b> |
| <b>Functions/Purpose</b>   |   |                                       | <b>Delegations</b>  |
| <ol style="list-style-type: none"> <li>1 Task and Finish Groups are responsible for undertaking in-depth reviews to investigate specific aspects of policy, services or issues of concern to the community. The work undertaken by Task and Finish Groups aims to influence and improve policy and service delivery.</li> <li>2 The Terms of Reference are to be agreed by the Overview and Scrutiny Committee.<sup>2</sup></li> </ol>   |   |                                       |   |
| <b>Procedure Rules</b>   | Panels and their meetings will not be regarded as meetings of the Council for the purposes of Section 100 of the Local Government Act 1972. The provisions of that Act and the Rules in Parts 4.1 and 4.2, other than the procedures described in this Rule, will not therefore apply to them.<br><b>Part 4.5 - Overview and Scrutiny Procedure Rules</b> |                                       |   |
| <b>Codes</b>   | <a href="#">Practice Note: Task and Finish Group Protocol for Chelmsford City Council</a><br><b>Part 5.1 – Code of Conduct for Councillors</b>  |                                       |   |

<sup>2</sup> See also: [Task and Finish Group Protocol Practice Note, available on the Council's website.](#)

**3.2.3 (f)**

| <b>Planning Committee</b>  |   |                    |                             |   |
|--|---|--------------------|-----------------------------|---|
| <b>Membership</b>  | <b>Quorum</b>   | <b>Substitutes</b> | <b>Politically Balanced</b> | <b>Frequency of meetings</b>  |
| <b>THIRTEEN</b>  | <b>FIVE</b>   | <b>YES</b>         | <b>YES</b>                  | <b>13 per year, or every three weeks</b>  |
| <b>Functions/Purpose</b>   |   |                    |                             | <b>Delegations</b>  |
| <p>The Committee shall be responsible for all those planning and conservation functions which are not delegated to the Director of Sustainable Communities or which they decide to refer to the Committee for decision. These responsibilities include:</p> <ol style="list-style-type: none"> <li>1. The determination of applications for planning permission.</li> <li>2. The granting or refusal of planning permission for development that does not comply with conditions imposed by a previous planning permission.</li> <li>3. The determination of applications for: <ol style="list-style-type: none"> <li>a) consent for the display of advertisements</li> <li>b) listed building consent</li> <li>c) conservation area consent</li> <li>d) hazardous substances consent</li> <li>e) consent under a tree preservation order</li> <li>f) certificates of lawful use or development</li> </ol> </li> <li>4. The service of: <ol style="list-style-type: none"> <li>a) an enforcement notice</li> <li>b) a stop notice</li> <li>c) a listed building enforcement notice</li> </ol> </li> <li>5. The revocation or modification of: <ol style="list-style-type: none"> <li>a) a planning permission</li> <li>b) a listed building consent</li> <li>c) hazardous substances consent</li> </ol> </li> <li>6. The diversion, closure or creation of a public right of way in connection with a development being considered by the Committee.</li> <li>7. The consideration of objections to Tree Preservation Orders.</li> </ol> |   |                    |                             | <p>Director of Sustainable Communities:<br/>To deal with specific matters or classes of matters delegated from time to time by the Planning Committee</p> |
| <b>Procedures</b>  | <b>Part 4.2 – Cabinet and Committees Procedure Rules</b>  |                    |                             |   |
| <b>Codes</b>   | <b>Part 5.1 – Code of Conduct for Councillors</b><br><b>Part 5.3 – Planning Code of Conduct</b> |                    |                             |   |

## 3.2.3 (g)

| <b>Employment Committee</b>   |  |                             |                              |
|---|--|-----------------------------|------------------------------|
| <b>Membership</b> <ol style="list-style-type: none"> <li><b>Five</b> councillors of Chelmsford City Council</li> <li>At least one of the Committee members must also be a member of the Cabinet.</li> <li><b>Two</b> independent persons (appointed under section 28(7) of the Localism Act 2011) but only in those cases where the Committee is to consider whether to recommend to Full Council the dismissal of any of the Statutory Officers referred to in Article 13 of the <u>Constitution</u>.</li> </ol>   |  |                             |                              |
| <b>Quorum</b>   | <b>Substitutes</b>                           | <b>Politically Balanced</b> | <b>Frequency of meetings</b> |
| Three   | Yes, other than for the Independent Persons. | Yes                         | As and when required         |
| <b>Functions/Purpose</b>  |  |                             | <b>Delegations</b>           |
| <b>1. Responsibility for the recruitment and appointments process in relation to:</b> <p>1.1 The Council's Statutory Officer posts referred to in Article 13 of the Constitution namely:</p> <ul style="list-style-type: none"> <li>• Head of Paid Service (Chief Executive),</li> <li>• Chief Finance Officer</li> <li>• Monitoring Officer</li> </ul> <p>1.2 Any Director</p><br><b>2. Responsibility for dealing with any disciplinary issues relating to the Statutory Officers or any Director.</b> <p>2.1 Hearing and determining any such issues referred to it in accordance with the requirements of the Employment Procedure Rules in Part 4.8 of the Constitution, subject to:</p> |  |                             | None                         |

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| <p>a) any conclusion reached in relation to paragraph 2.1 above to dismiss any of the statutory officers is subject to formal approval by Full Council</p> <p>b) any conclusion to impose any sanction in relation to a Director or any sanction other than a dismissal in the case of a Statutory Officer, is subject to a right of appeal to the Employment Appeals Committee.</p> <p>2.2 Where disciplinary proceedings relate to the any of the Statutory Officers <b>and</b> the decision to be reached could lead to their dismissal, the Committee will be operating as a "Panel" under Schedule 3 to the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) and therefore the Committee's membership must:</p> <p>a) include two Independent Persons</p> <p>b) whose function it is to advise and make recommendations to the Council before a vote is taken on whether to dismiss the relevant Statutory Officer.</p> <p><b>3. General Responsibilities as regards Recruitment</b></p> <p>3.1 The recruitment of the Council's Head of Paid Service (i.e. Chief Executive) subject to any recommendation to appoint a preferred candidate being referred to Full Council for approval.</p> <p>3.2 The recruitment of the Council's Monitoring Officer, subject to:</p> <p>a) any recommendation to appoint a preferred candidate being referred to Full Council for approval, <b>other than</b></p> <p>b) where the appointment is to be on an interim or temporary basis, in which case the decision to appoint will rest with the Chief Executive.</p> <p>3.3 The recruitment and appointment of the Council's Chief Finance Officer and the Council's Directors, except in those cases where the appointment is to be on an interim or temporary basis, in which case the appointment will rest with the Chief Executive.</p> <p><b>4. General responsibilities as regards Disciplinary Action</b></p> <p>4.1 The screening of potential disciplinary issues relating to the Statutory Officers or any Director to determine whether:</p> <p>a) they warrant investigation (or further investigation), and</p> <p>b) the relevant officer should be suspended or, if already suspended, whether the suspension should continue.</p> <p>4.2 To appoint, or authorise the Chief Executive or Human Resources Manager to select and appoint on its behalf, one or more persons to investigate any disciplinary issues relating to the Statutory Officers or any Director, with a view to such person(s) submitting a written report, setting out their findings, to the Committee for consideration.</p> |  |
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| <p>4.3 Where appropriate to hold (as part of its proceedings) a hearing for the purpose of considering the investigation report prepared and any representations the relevant officer may wish to make.</p> <p>4.4 To take disciplinary action (as defined in regulation 2 of the Local Authorities (Standing Orders) Regulations 2001 <b>short of dismissal</b> against any of the Statutory Officers.</p> <p>4.5 When operating as a Panel under Schedule 3 to the 2001 Regulations, to recommend to full Council that the Head of Paid Service (Chief Executive), Monitoring Officer, or section 151 Chief Finance Officer be dismissed where, after due consideration, the Committee considers dismissal to be the appropriate disciplinary action to take.</p> <p>4.6 To take disciplinary action (including, where considered appropriate, the issue of a notice of dismissal) in respect of any Director.</p> <p><b>5. Other functions</b></p> <p>5.1 To consider and, if appropriate, approve any proposed post which attracts a total remuneration package of £100,000 or more.</p> |  |
| <b>OTHER INFORMATION</b>   | The Independent Persons will, when part of the Committee, have full voting rights.   |
| <b>Procedures</b>  | <p><b>Part 4.2 - Cabinet and Committee Procedure Rules</b></p> <p><b>Part 4.8 - Officer Employment Procedure Rules</b></p> |
| <b>Codes</b>   | <b>Part 5.2 – Code of Conduct for Officers</b>   |

**3.2.3 (h)**

| <b>Employment Appeals Committee</b>   |   |                             |                              |
|---|---|-----------------------------|------------------------------|
| <b>Membership</b> <ol style="list-style-type: none"> <li><b>Four</b> councillors of Chelmsford City Council</li> <li>At least one member of the Committee will be a Cabinet Member</li> <li>Members of the Committee will only be appointed when there is an appeal to be heard and by one of the following officers (in order of priority) and only after consultation with the Leaders of the political groups of the Council: <ul style="list-style-type: none"> <li>(i) the Head of Paid Service; <b>or</b> (if unavailable or directly involved the subject matter of the appeal)</li> <li>(ii) the Director of Connected Chelmsford; <b>or</b> (if unavailable or directly involved the subject matter of the appeal)</li> <li>(iii) the Monitoring Officer.</li> </ul> </li> </ol> |   |                             |                              |
| <b>Quorum</b>   | <b>Substitutes</b>  | <b>Politically Balanced</b> | <b>Frequency of meetings</b> |
| Three   | Yes   | Yes                         | As and when required         |
| <b>Functions/Purpose</b>  |   |                             | <b>Delegations</b>           |
| <ol style="list-style-type: none"> <li>To hear appeals lodged by the Head of Paid Service, Section 151 Officer, and Monitoring Officer against any disciplinary action (falling short of dismissal) taken by the Employment Committee.</li> <li>To hear appeals by Directors against any disciplinary action (including dismissal) taken by the Employment Committee.</li> </ol>  |   |                             | None                         |
| <b>Procedures</b>   | <b>Part 4.2 - Cabinet and Committee Procedure Rules</b><br><b>Part 4.8 - Officer Employment Procedure Rules</b> |                             |                              |
| <b>Codes</b>  | <b>Part 5.2 – Code of Conduct for Officers</b>  |                             |                              |



### 3.2.4 Advisory Panels

The Council and Cabinet may establish outside the formal Member Bodies structure of the Council ad-hoc panels to review existing policies or to develop new policies, or to look into other issues within their remits.

#### Advisory Panels for Council Functions

| <b>Mayoral Working Group</b>  |   |  |                              |
|---|---|--|------------------------------|
| <b>Membership</b><br>Mayor<br>Deputy Mayor<br>Leader<br>Leader of the Opposition<br>Chief Executive<br>Civic Services Manager   |   |  |                              |
| <b>Quorum</b>   | <b>Other attendees</b>  | <b>Politically Balanced</b><br><br><b>Not applicable</b> | <b>Frequency of meetings</b> |
| <b>Functions/Purpose</b>  |   |  | <b>Delegations</b>           |
| The Mayoral Working Group will meet at regular intervals to discuss Civic matters, including: <ol style="list-style-type: none"> <li>1. Mayoral Protocol</li> <li>2. Mayoral Engagements</li> <li>3. Civic Events</li> <li>4. Honorary Freeman and Freedoms</li> <li>5. Town Twinning</li> <li>6. Guidance for the Mayor designate</li> </ol> |   |  | None                         |
| <b>Procedures</b>   | N/a   |  |                              |
| <b>Codes- Part 5</b>  | <b>Part 5.1 – Code of Conduct for Councillors</b><br><br><b>Part 5.5 – Mayoral Party Protocol</b> |  |                              |

| Constitutional Working Group   |   |  |                       |
|--|---|--|-----------------------|
| Membership: Seven Members including the Leader of the Council and Chair of Governance Committee  |   |  |                       |
| Quorum   | Other attendees                                 | Politically Balanced                       | Frequency of meetings |
| 3  | Monitoring Officer, Democratic Services officer | Yes (by convention see para 4.2.8A.1)      | as necessary          |
| Functions/Purpose  |   | Delegations                                |                       |
| The Constitutional working group will meet as necessary to review proposed changes to the constitution where member consultation is required.<br><br>The working group may also act as a consultative group for matters arising from the Governance Committee where it would be helpful for informal member consultation to take place prior to public consideration.<br><br>This does not prevent Council adopting changes to the constitution that have not been reviewed by the Constitutional working group. |   | Minor changes – see 2.16.3 of constitution |                       |
| Procedures   | Constitution                                    |  |                       |
| Codes  | Part 5.1 – Code of Conduct for Councillors      |  |                       |

Advisory Panels for Cabinet Functions

| <b>Chelmsford Garden Village Delivery Board</b>   |
|---|
| <p><b>Membership</b></p> <p><u>Chelmsford City Council (CCC)</u></p> <p>Leader</p> <p>Cabinet Member for Greener Chelmsford</p> <p>Chief Executive (Chair)</p> <p>Director of Sustainable Communities</p> <p>Spatial Planning Services Manager</p> <p>Notetaker</p> <p><u>Essex County Council (ECC)</u></p> <p>Deputy Cabinet Member for Infrastructure</p> <p>Director for Transport and Infrastructure</p> <p>Head of Planning and Development</p> <p><u>Chelmsford Garden Community Consortium (CGC)</u></p> <p>Director Head of Planning – Countryside Properties</p> <p>Director of Planning – DLBP on behalf of Threadneedle Pension Ltd</p> <p>Managing Director – Ptarmigan Land</p> <p>Property Development Manager – Hanson Quarry Products Ltd</p>                              |
| <p><b>Purpose</b></p> <p>To provide strategic guidance and oversight and act as resolution forum to ensure the timely delivery of the Chelmsford Garden Village and its supporting infrastructure.</p> <p><b>Specific Terms</b></p> <ol style="list-style-type: none"> <li>1. That the Board retains its function as an informal partnership with no separate legal status or powers in its own right. It will draw on the powers of its membership to co-ordinate and deliver an agreed masterplan for the Chelmsford Garden Village and supporting infrastructure delivery.</li> <li>2. That the Board has three scheduled meetings annually – February, June and October. Any issues arising in between dates can be dealt with by a virtual meeting<sup>3</sup>. Agendas and</li> </ol> |

<sup>3</sup> Via electronic communication e.g. e-mail, tele/video conference

action notes to be produced by CCC. In the event that a member is unable to attend, a substitute can be nominated.

3. Chelmsford City Council is the Local Planning Authority for the Chelmsford Garden Village scheme and Essex County Council is the Mineral Local Planning, Highways and Transportation, Education and Social Services Authority. Chelmsford City Council will coordinate the development and approval of a masterplan, receive and determine relevant planning applications and conduct statutory consultation as part of the process.
4. That actions of the Delivery Board are monitored at each meeting.
5. That the Board monitor Planning Performance Agreements (PPAs) for the preparation of a comprehensive masterplan and future PPAs governing pre-application and planning applications at the appropriate time
6. That the Board is consulted on the submission of any additional delivery or other bids including those to the Local Enterprise Partnership or Homes England e.g. Garden Communities Prospectus.
7. That the Board endorse the use of regular promotor/developer and Council officer meetings to oversee the day-to-day development of the masterplan and subsequent pre-application and application process. The outcomes of these meetings will be reported regularly to the Board.

## Chelmsford Garden Village Community Liaison Group

### Membership

#### Chair

Member from the Delivery Board (Leader of Chelmsford City Council)

#### Chelmsford City Council (CCC)

Cabinet Member for Greener Chelmsford

Director of Sustainable Communities

Spatial Planning Services Manager

Planning Development Services Manager

Notetaker

#### Essex County Council (ECC)

Deputy Cabinet Member for Infrastructure

Head of Planning and Development

#### NE Chelmsford Garden Community Consortium (NEGCC)

Two representatives

#### CCC Ward Members

Ward Councillor(s) representative from each of the wards:

| Ward                              | Ward Members |
|-----------------------------------|--------------|
| Boreham and the Leighs            | 2            |
| Broomfield and the Walthams       | 3            |
| Chelmer Village and Beaulieu Park | 3            |
| Springfield North                 | 3            |

#### ECC Division Members

| Division               | Division Members |
|------------------------|------------------|
| Springfield            | 1                |
| Broomfield and Writtle | 1                |
| Chelmer                | 1                |

### Parish Councils

A representative from:

- Boreham Parish Council
- Broomfield Parish Council
- Chelmer Village Council
- Chelmsford Garden Community Council
- Little Waltham Parish Council
- Springfield Parish Council

### Interest Groups

A representative from:

- Boreham Neighbourhood Plan Group
- Broomfield Neighbourhood Plan Group
- Beaulieu Residents Association
- Channels Resident Association
- Essex Wildlife Trust
- Living Landscapes Group (Title to be confirmed)
- Cycling Action Group
- Bridleway Association
- Land Trust
- Beaulieu Churches
- Beaulieu Schools
- New Hall School

### **Purpose**

To provide updates to local interest groups and foster the opportunity for the local community to engage with the existing and emerging communities as the Garden Community develops over the next 20+ years.

### **Specific Terms**

1. That the liaison group retains its function as an informal engagement group with no separate legal status or powers in its own right. It will draw on the membership of the group to co-ordinate and provide updates to the community on the delivery of the Chelmsford Garden Village and supporting infrastructure.
2. That the community group has two scheduled meetings annually – May and September. Any issues arising in between dates shall be raised to the chair<sup>4</sup> and if necessary dealt with by a virtual meeting<sup>5</sup>. Any issues raised outside of a meeting will be reported to the community liaison group as a way of an update. Agendas and action notes to be produced by CCC. In the event that a member is unable to attend, a substitute can be nominated.
3. Chelmsford City Council is the Local Planning Authority for the Chelmsford Garden Village scheme and Essex County Council is the Mineral Local Planning, Highways and Transportation, Education and Social Services Authority. Chelmsford City Council will coordinate the development and approval of a master plan, receive and determine relevant planning applications and conduct statutory consultation as part of the process.
4. That any actions arising from the community group are monitored at each meeting.

<sup>4</sup> Or nominated person to deal with queries as they arise

<sup>5</sup> Via electronic communication e.g. e-mail, tele/video conference

| <b>Community Funding Panel</b>  |                                     |   |                             |  |
|---|-------------------------------------|---|-----------------------------|--|
| <b>Membership</b>   | <b>Quorum</b>                       | <b>Other attendees</b>  | <b>Politically Balanced</b> | <b>Frequency of meetings</b>                     |
| Cabinet Member for an Active Chelmsford (Chair)<br><br>Cabinet Member for Finance<br><br>Cabinet Deputy for Sustainable Transport<br><br>Director of Sustainable Communities<br><br>Director of Connected Chelmsford<br><br>Economic Development and Implementation Manager<br>Services Manager<br><br>Procurement and Risk Services Manager<br><br>External Funding professional<br><br>Climate Ambassador | 3 including at least one councillor | Relevant Ward Members may also be invited to join the Panel on occasion when the Neighbourhood Allocation CIL funding is being discussed for Neighbourhood groups<br><br>There will be no substitutes | Not applicable              | Normally twice a year                            |
| <b>Functions/Purpose</b>  |                                     |   |                             | <b>Delegations</b>                               |
| 1. To oversee the governance of Chelmsford's Community Funding Scheme, which includes the Neighbourhood Allocation of the Community Infrastructure Levy (CIL) in the nine unparished wards the Greener Chelmsford Grant Scheme, the Council's Discretionary   |                                     |   |                             | Director of Connected Chelmsford in consultation |

|   |  |
|---|--|
| <p>Corporate Grant Aid scheme and the Rural England Prosperity Fund Grant Scheme. Appropriate recommendations on spend to Cabinet and Council are made as appropriate.</p> <ol style="list-style-type: none"> <li>2. To make recommendations to Cabinet on the allocation of Community Funding including commissioning service level agreements of up to 3 years.</li> <li>3. To oversee the governance of the Strategic Allocation of CIL and to make recommendations on spend to Cabinet and Council as appropriate.</li> </ol> | <p>with the Panel for awards of up to £10k.</p>              |
| <b>Procedures</b>   | Chair of the Panel is appointed by the Leader of the Council |
| <b>Codes</b>  | <b>Part 5.1 – Code of Conduct for Councillors</b>            |



| <b>Essex Countywide Traveller (Joint) Committee</b>  |                                     |                             |  |
|--|-------------------------------------|-----------------------------|--|
| <b>Membership: Thirteen comprising:</b> <ul style="list-style-type: none"> <li>One Executive Councillor from each of the following Councils: Basildon, Castle Point, Chelmsford, Colchester, Maldon, Rochford, Tendring, Thurrock and Uttlesford;</li> <li>One representative each from the Essex County Fire and Rescue Service &amp; the Chief Constable of Essex Police; and</li> <li>Two Executive Councillors from Essex County Council (“the Council”)</li> </ul> <p>In addition, each organisation is also entitled to send an officer in support of their member representative.</p>   |                                     |                             |  |
| <b>Quorum</b>  | <b>Substitutes</b>                  | <b>Politically Balanced</b> | <b>Frequency of meetings</b>   |
| <b>SIX</b>   | <b>another Executive Councillor</b> | <b>NO</b>                   | <b>At least twice a year</b>   |
| <b>Functions/Purpose</b>   |                                     |                             | <b>Delegations</b>   |
| <p>1. The Joint Committee shall exercise the following functions;</p> <p>1.1 The Functions delegated to it as set out in the Essex Countywide Traveller Committee Agreement (the Agreement). For the avoidance of doubt, the Council shall be responsible for the Functions in the first instance, unless another Authority, or the Chief Constable, notifies the Manager of the Essex Countywide Traveller Unit (“the Unit Manager”) either in writing (electronic or otherwise) or by telephone communications, that they shall be managing the Function.</p> <p>1.2 Such other functions as the Authorities may from time to time delegate to the Joint Committee with the written agreement of the Joint Committee.</p> <p>1.3 This Agreement is without prejudice to each Authority’s other powers and responsibilities for their respective areas and each Authority agrees that it will not exercise the Function of the Joint Committee except:</p> <p>i) Via the Joint Committee;</p> <p>ii) Via powers delegated to an officer by the Joint Committee;</p> <p>iii) After consulting the other Partner Authorities; or</p> <p>iv) After notification that they wish to manage a Function in accordance with Paragraph 10.1 of the Agreement. Where notification is received and relates to the enforcement of unauthorised encampments, the Partner Authorities agree to follow the enforcement process set out in the Agreement at Appendix 1a and to use the standard templates contained within Appendix 1b.</p> |                                     |                             | <p>To the Council, as contained in the Agreement or as subsequently agreed by the Committee.</p> <p>Sub Committees can be established by any of the individual Partner Authorities but will have no decision powers, except where provided within the Agreement and without prejudice to the provisions of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.</p> |

|  |   |
|--|---|
| <p>1.4 For the avoidance of doubt:</p> <ul style="list-style-type: none"> <li>i) The Agreement shall not relate to the management of travelling showman, who remain the responsibility of the respective Authorities and the Chief Constable.</li> <li>ii) It is acknowledged that the Chief Constable is subject to unique statutory duties and obligations, which cannot be compromised or otherwise affected by the Agreement.</li> </ul> <p>2. The Joint Committee shall be responsible for:</p> <ul style="list-style-type: none"> <li>2.1 Overseeing the provision of the baseline services contained in Appendix 1 to the Agreement;</li> <li>2.2 Agreeing future Annual Business Plans for the Joint Committee;</li> <li>2.3 Agreeing all new, or revised, strategies and processes for the implementation of the Partner Authorities' and Chief Constable's policies (such as enforcement);</li> <li>2.4 Agreeing the level of service provision through the annual budget setting process and as set out in this Agreement;</li> <li>2.5 Annually agreeing the level of fees and charges pertaining to the Joint Committee (to be proposed to each Partner Authority's and Chief Constables appropriate decision-making body for final approval as appropriate);</li> <li>2.6 Agreeing an annual budget proposal to be submitted to each Partner Authority's and Chief Constables appropriate decision making body for final approval;</li> <li>2.7 Making decisions relating to the use of funding of end of year deficits and surpluses;</li> <li>2.8 Approving an Annual Report to be made available to the Partner Authorities and Chief Constable; and</li> <li>2.9 Reviewing this agreement at the annual meeting held after 1 April in any year.</li> </ul> <p>3. The Joint Committee may not delegate the functions referred to in paragraph 2 above;</p> <p>4. The Joint Committee will not have responsibility for staffing decisions but the Authorities and Council agree that the appointment of a replacement for the Unit Manager will be carried out in consultation between all Authorities and an officer from each of the Authorities shall be invited to take part in the recruitment process if they choose to do so.</p> |   |
| <p><b>Procedures</b></p>   | <p>The Committee will operate in accordance with:</p> <ul style="list-style-type: none"> <li>i) the terms of the Essex Countywide Traveller Committee Agreement: and</li> </ul> |

|              |   |
|--------------|---|
|              | ii) where the agreement is silent, the Constitution of the Essex County Council, particularly as regards the management and administration of its meetings.           |
| <b>Codes</b> | The Code of Conduct for Councillors - All Committee Members shall observe at all times the provisions of the Code of Conduct adopted by their respective authorities. |

| <b>Chelmer Waterside Panel</b> |  |
|--------------------------------|--|
| <b>Purpose</b>                 | To have strategic oversight of the delivery of the vision for the future of Chelmer Waterside and to oversee the delivery of infrastructure in Chelmer Waterside utilising the Housing Infrastructure Fund.  |
| <b>Terms of Reference</b>      | <ol style="list-style-type: none"> <li>1. To shape the Vision for Chelmer Waterside in line with the wider development of the City Centre.</li> <li>2. To shape the master planning of Chelmer Waterside in line with the Council's adopted approach to Master Planning.</li> <li>3. To shape the housing and property strategy to deliver the Vision for Chelmer Waterside.</li> <li>4. The shape the marketing strategy for the delivery of housing sites in Chelmer Waterside.</li> <li>5. To receive regular project updates on the delivery of the infrastructure elements being funded by the Housing Infrastructure Fund.</li> <li>6. To make recommendations to Cabinet on any key decisions linked to the delivery of the infrastructure at Chelmer Waterside.</li> <li>7. To receive financial reports regarding the use the Housing Infrastructure Fund to deliver the infrastructure for which the funding is provided to the Council.</li> <li>8. To monitor the programme(s) for the delivery of the infrastructure at Chelmer Waterside being funded by the Housing Infrastructure Fund.</li> </ol> |
| <b>Composition</b>             | <p>Councillors:</p> <ul style="list-style-type: none"> <li>• Cabinet Member for a Fairer Chelmsford (Chair)</li> <li>• Leader of the Council</li> <li>• Cabinet Member for Finance</li> <li>• Cabinet Member for a Greener Chelmsford</li> <li>• Cabinet deputy for Economy and Strategic Projects</li> <li>• Moulsham &amp; Central Ward Cllr (Adutwim)</li> <li>• Chair of the Chelmsford Waterways Working Group (Lee)</li> </ul> <p>Directors:</p> <ul style="list-style-type: none"> <li>• Director of Sustainable Communities</li> <li>• Director of Public Places</li> </ul> <p>Service Managers:</p> <ul style="list-style-type: none"> <li>• Corporate Property Services Manager</li> <li>• Economic Development and Implementation Services Manager</li> </ul>   |

### **Part 3.3 Responsibility for Executive Functions**

#### **3.3.1 Executive functions - Introduction**

The Executive is led by the Leader and includes members of the Cabinet, any Cabinet Committees, any officers and joint arrangements discharging Executive functions. It should be noted that: -

The Executive is responsible for any functions which are not specifically required to be carried out by the Council under regulations and any local choice functions that the Council has chosen to make executive functions.

Council functions may not be exercised by the Executive.

Executive functions may only be exercised by the Executive.

#### **LEADER'S SCHEME OF EXECUTIVE DELEGATION** including Functions of Cabinet Members and Areas of Responsibility

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##### **Explanatory**

1. The Scheme of Executive Delegation set out in paragraph 3 below is the current Scheme and has been agreed by the Leader. It describes who and/or which bodies exercise the Executive functions of Chelmsford City Council ("the Council").

##### **Legal position**

2. When elected, the Leader of the Council holds all of its Executive functions but may delegate them to one or more of the following: -
  - (a) the Cabinet as a whole
  - (b) individual members of the Cabinet
  - (c) committees of the Cabinet
  - (d) officers
  - (e) joint executive committees or under joint arrangements

##### **The Scheme of Delegation**

3. This Scheme of Executive Delegation provides that the following arrangements exist for the discharge of Executive functions:
  - (a) The Cabinet may discharge all Executive functions. Functions to be discharged by the Cabinet are set out in Part 3.3.2(i) of the Council's Constitution.
  - (b) Individual members may only discharge functions delegated to them by the Leader in accordance with paragraph 2 above.

- (c) The Leader may discharge any Executive function where it is not possible for the Cabinet to do so in a timely manner.
  - (d) Committees of the Cabinet may discharge the functions described in Part 3.3.4 of the Constitution.
  - (e) Officers may discharge, subject to paragraph 5, those delegations described in Part 3.4 of the Constitution, "Officer Scheme of Delegation", which are Executive functions.
4. Under this Scheme, no arrangements are made for the delegation of executive functions by:
- (a) a committee of the Cabinet
  - (b) an individual member of the Cabinet (other than the Leader)
5. Any officer authorised to exercise an Executive function by this Scheme of Executive Delegation may from time to time by giving written notice to the Legal and Democratic Services Manager nominate another officer as their deputy to exercise that Executive function in situations where they are not available through annual leave, sick leave or other leave of absence. The Legal and Democratic Services Manager will keep a record of these nominations. A nominated deputy exercising an Executive function must comply with the requirements of this Scheme of Delegation.
6. All current specific delegations of authority granted by the Cabinet prior to the making of this Scheme of Executive Delegation shall remain in full force and effect.
7. Deputising Arrangements. The Leader must appoint a Deputy Leader and notify their appointment to the Council. This will be done by notice in writing to the Legal and Democratic Services Manager, who will report the appointment to the next available meeting of the Council. If for any reason the Leader is unable to act, or the office of elected Leader is vacant, the Deputy Leader will act in their place. If the Leader is unable to act or the office of elected Leader is vacant, and the Deputy Leader is unable to act, or the office of Deputy Leader is vacant, then the Cabinet must act or arrange for a Cabinet Member to act.

#### **Interpretation and changes**

8. Any questions about the interpretation of any part of this Scheme of Delegation will be determined by the Legal and Democratic Services Manager.
9. Any changes to this Scheme of Delegation will come into operation 48 hours after receipt by the Legal and Democratic Services Manager or another date or time specified by the Leader. The Legal and Democratic Services Manager will ensure that an up-to-date version of the scheme is available for councillors, officers and the public and notify any changes to councillors.

### 3.3.2 (i) Functions of Cabinet Members and Areas of Responsibility

In addition to their collective responsibility for discharging Executive functions, each Cabinet Member will have a portfolio of issues on which they will lead. These are as follows: -

| Leader |  |
|--------|--|
|        | <p><u>Communications and engagement</u></p> <ol style="list-style-type: none"> <li>1. Corporate communications, consultation, public relations and information services in connection with the Council's activities;</li> <li>2. the oversight of town centre management;</li> <li>3. community development and the promotion of partnerships with other bodies; and; community engagement, with particular reference to Individual Electoral Registration.</li> </ol>   |
|        | <p>In accordance with policies and strategies adopted by the Council, to be responsible for the powers and duties of the Council with respect to, and arising from:</p> <ol style="list-style-type: none"> <li>1. overseeing the performance of the Council, in consultation with the Overview and Scrutiny Committee;</li> <li>2. monitoring of the Council's major projects to ensure that they are being developed and implemented in a timely and cost-effective manner;</li> <li>3. the preparation and review of the Community Plan and corporate strategies of the Council not primarily the responsibility of other Cabinet members;</li> <li>4. inclusivity matters;</li> <li>5. ensuring compliance with and responding to any external assessment regimes to which the Council may be subject.</li> </ol> |
|        | <p><u>Cabinet Deputy for Economic Development and Special Projects</u></p> <ol style="list-style-type: none"> <li>1. Managing our relationship with the Business Improvement District and broader city centre management;</li> <li>2. Providing advice and skills initiatives to new and existing local businesses to encourage economic growth;</li> <li>3. Promoting local economic development and tourism;</li> <li>4. Listed buildings and heritage advice, public realm, community infrastructure levy projects and delivery</li> </ol>  |
|        | <p><u>Cabinet Deputy for Sustainable Transport</u></p> <ol style="list-style-type: none"> <li>1. Oversee the revised car park strategy</li> <li>2. Oversee the sustainable transport policy in the revised local plan</li> <li>3. Represent the Council on SEPP</li> <li>4. Improve CCC's connections with bus and train operators, to lobby for improved services</li> <li>5. Consider "walk to school" initiatives</li> </ol>  |

| Fairer Chelmsford (Deputy Leader)  |   |
|--|---|
| In accordance with policies and strategies adopted by the Council, to be responsible for the powers and duties of the Council with respect to, and arising from:   |   |
| <u>Strategic housing</u> <ol style="list-style-type: none"> <li>1. Meeting the housing needs of the City, including the statutory homeless;</li> <li>2. the provision of housing and other advice to the local community;</li> <li>3. promoting partnerships with Registered Social Landlords to secure and effectively manage affordable housing in the City;</li> <li>4. residential and related property retained, whether tenanted or leased to partner organisations;</li> <li>5. monitoring the Stock Transfer Agreement.</li> </ol> |   |
| <u>Land and property</u> <ol style="list-style-type: none"> <li>1. the administration, in conjunction with the relevant Cabinet Members, of the Council's land and property, including its public buildings and all commercial and industrial landholdings, and to identify strategic opportunities in relation to the acquisition, disposal and use of land and property.</li> </ol>  |   |
| Active Chelmsford  |   |
| In accordance with policies and strategies adopted by the Council, to be responsible for the powers and duties of the Council with respect to, and arising from:   |   |
| 1.   | <u>Leisure &amp; Heritage</u><br>The provision of sporting and leisure facilities, including Hylands House.   |
| 2.   | <u>Voluntary &amp; Community Sector Support</u> <ol style="list-style-type: none"> <li>1. Grant funding for local voluntary and community groups</li> <li>2. Community engagement and voluntary sector development</li> </ol> |
| 3.   | <u>Public Health &amp; Wellbeing</u> <ol style="list-style-type: none"> <li>1. the safety of the community and accident prevention, including emergency planning.</li> </ol>  |
| <u>Cabinet Deputy for Cultural Services</u><br><br><u>Museums and culture</u> <ol style="list-style-type: none"> <li>1. The provision of entertainment and cultural activities and facilities, including theatres, galleries and special events;</li> <li>2. community and village halls;</li> <li>3. the development and management of arts, cultural and entertainment facilities and services and the award of grants in appropriate cases; Museum services.</li> </ol>   |   |



| Finance            |   |
|--------------------|---|
|                    | In accordance with policies and strategies adopted by the Council, to be responsible for the powers and duties of the Council with respect to, and arising from:  |
| 1.                 | <u>Accountancy</u> <ol style="list-style-type: none"> <li>1. The efficient and effective management of the Council's financial resources, in conjunction with the designated officer under Section 151 of the Local Government Act 1972;</li> <li>2. the presentation of an annual budget to the Cabinet and Council and making recommendations on the budget process;</li> <li>3. determining the parameters for deciding the level of fees and charges;</li> <li>4. receipt of the Annual Report and Statement of Accounts and the write-off of debts;</li> <li>5. arrangements to consult with representatives of non-domestic ratepayers under Section 65 of the Local Government Finance Act 1992;</li> </ol>  |
| 2.                 | <u>Audit</u> <ol style="list-style-type: none"> <li>1. The delivery of a full and effective internal audit function, in consultation with the Audit and Risk Committee;</li> </ol>  |
| 3.                 | <u>Procurement, Risk, Insurance and Revenue/Benefits</u> <ol style="list-style-type: none"> <li>1. the funding of local voluntary and community groups and projects; the efficient and cost-effective procurement of goods and services required by the Council;</li> <li>2. fraud investigation;</li> <li>3. Revenue and Benefits Services</li> </ol>  |
| Greener Chelmsford |   |
|                    | In accordance with policies and strategies adopted by the Council, to be responsible for the powers and duties of the Council with respect to, and arising from:  |
| 1.                 | <u>Technical services</u><br>Municipal engineering, architectural design, facilities management, building maintenance and residual highways matters.  |
| 2.                 | <u>Planning and Development</u> <ol style="list-style-type: none"> <li>1. All matters (with the exception of functions relating to town and country planning, development control and tree preservation orders) relating to the physical development of the City, including the preparation of supplementary planning guidance, the designation of conservation areas, the removal of permitted development rights, the making of compulsory purchase orders and the designation of clearance areas;</li> <li>2. overseeing the development of housing policy and strategy and development of the Council's enabling role for housing provision;</li> <li>3. assisting with meeting the City's housing needs;</li> <li>4. all building regulations and associated matters;</li> </ol> |
| 3.                 | <u>Environmental services</u> <ol style="list-style-type: none"> <li>1. The protection of the local environment and the promotion of sustainability;</li> <li>2. the provision of environmental services in the City, including: <ol style="list-style-type: none"> <li>b. public and environmental health;</li> </ol> </li> </ol>  |

|                         |   |
|-------------------------|---|
|                         | <ul style="list-style-type: none"> <li>c. consumer protection, food and drugs;</li> <li>3. the condition and standards of housing.</li> </ul>   |
| 4.                      | <u>Parks</u> <ul style="list-style-type: none"> <li>1. Parks strategy and development;</li> <li>2. open spaces, ground maintenance, horticulture and allotments;</li> <li>3. biodiversity;</li> <li>4. Countryways services; and</li> <li>5. All matters relating to the cemeteries and crematorium</li> </ul>  |
| 5.                      | <u>Embed Climate Action in every Council department.</u>  |
| <b>Safer Chelmsford</b> |   |
|                         | In accordance with policies and strategies adopted by the Council, to be responsible for the powers and duties of the Council with respect to, and arising from:  |
| 1.                      | <u>Street Care, Waste Management, and Recycling</u> <ul style="list-style-type: none"> <li>1. Strategies on waste collection and recycling; overseeing the functions of the Council's Direct Services Organisation, including the arrangements for waste collection and recycling, street cleansing and works to the highway.</li> </ul>  |
| 2.                      | <u>Public Health and Protection Services (Regulatory)</u> <ul style="list-style-type: none"> <li>1. the development of policies relating to the Council's licensing and regulatory functions.</li> </ul>  |
|                         | <u>Cabinet Deputy for Support Services</u><br><br><u>Central Services</u> <ul style="list-style-type: none"> <li>1. The Council's workforce and its duties as an employer;</li> <li>2. the development of customer care objectives and the delivery of associated initiatives; and</li> <li>3. the Council's legal, business and democratic services functions, including the Mayoralty but excluding electoral matters.</li> </ul><br><u>Digital services</u><br>The powers and duties of the Council with respect to and arising from the strategic development of information technology and its use to enhance the delivery of the Council's services and strategies. |

### 3.3.3 Terms of Reference of the Cabinet

| <b>Cabinet</b>   |   |  |
|--|---|--|
| <b>Frequency of meetings</b><br><br><b>EIGHT per year</b>  | <b>Membership</b><br><br><b>UP TO TEN</b><br>(Political balance rules do not apply) | <b>Quorum</b><br><br><b>THREE</b>  |
| <b>Functions</b>   |   | <b>Delegations</b>   |
| <p>1. To propose the Council's annual budget.</p> <p>2. To oversee expenditure within budget heads, and to agree:</p> <ol style="list-style-type: none"> <li>items which are specifically included in revenue and capital budgets;</li> <li>items of virement up to £1,000,000 (outside of delegations to the Director of Financial Services); and</li> <li>requests for supplementary estimates up to £1,000,000 (outside of delegations to the Director of Financial Services) where adequate uncommitted revenue working balances and uncommitted capital resources exist to fund them.<sup>6</sup></li> </ol> <p><i>Exception:</i> Requests for major supplementary estimates and major virements shall require the approval of the Full Council.</p> <p>3. To ensure consultation with the public, the Overview and Scrutiny Committee and other members of the Council on policies and strategies.</p> <p>4. Taking into account the views of Member Bodies, to recommend to the Council the adoption, amendment of or departures from statutory and major non-statutory plans, policies and strategies ("the policy framework") in the list maintained by the Monitoring Officer.</p> <p>5. To implement, within approved budgets, agreed plans and the policy framework of the Council.</p> <p>6. To agree additional urgent expenditure beyond the heads and limits approved by the Council, provided that such expenditure can be offset by additional income or the use of contingency funds or savings within budgetary allocations to functions that are the responsibility of the Cabinet.</p> <p>7. To review the Constitution of the Council and its officer and member structures and to recommend changes to the Council.</p> <p>8. Generally to carry out within the policy framework adopted by the Council the major operational functions of the Council, including:</p> |   | <p>1. <u>Cabinet Committees</u></p> <ul style="list-style-type: none"> <li>- Financial Appeals Committee (details of which are set out in Part 3.3.4)</li> </ul> <p>2. <u>Officers</u></p> <ul style="list-style-type: none"> <li>- Officers Scheme of Delegation (details of which are set out in Part 3.4.)</li> </ul> |

<sup>6</sup> See [Practice Note on Financial Limits](#)

|  |  |
|--|--|
| <ul style="list-style-type: none"> <li>a) the provision of recreational, cultural, sporting and entertainment facilities in the City;</li> <li>b) the provision of services that protect and enhance the social and community life of the City and the health and safety of the public;</li> <li>c) the democratic functions of the Council and its promotional activities;</li> <li>d) the promotion of economic development and employment in the City;</li> <li>e) the promotion of community well-being and community development to prevent social exclusion;</li> <li>f) the promotion of housing initiatives to enable the City's housing needs to be met;</li> <li>g) the implementation and operation and monitoring of policies to facilitate the provision of housing across all tenures;</li> <li>h) the proper and efficient administration of the Council's finances and its auditing procedures;</li> <li>i) the implementation and operation of policies relating to the Council's corporate assets, including human resources and land and property;</li> <li>j) transportation;</li> <li>k) the adoption of non-statutory Supplementary Planning Documents.</li> </ul> <p>9. The following are specifically delegated to the Cabinet:</p> <ul style="list-style-type: none"> <li>a) approving the annual Council Tax Base; and</li> <li>b) the Council's responsibilities and functions under the Scrap Metal Dealers Act 2013 including agreeing a procedure for the determining of applications which are subject to representations.</li> </ul> |  |
| <b>Procedures</b>  | <b>Part 4.2 – Cabinet and Committees Procedure Rules</b><br><b>Part 4.4 – Executive Procedure Rules</b><br><b>Part 4.6 – Access to Information Procedure Rules</b><br><b>Part 4.7 – Budget and Policy Procedure Rules</b><br><b>Part 4.9 – Financial Rules</b> |
| <b>Codes</b>   | <b>Part 5.1 – Code of Conduct for Councillors</b>  |

### 3.3.4 Delegations to Cabinet Committees

| Finance Appeals Committee  |   |  |  |
|--|---|--|--|
| <b>Membership</b><br><br>Three members of the Cabinet, other than the Cabinet Member responsible for Finance and their Deputy  | <b>Quorum</b><br><br><b>Two</b>                   | <b>Politically Balanced</b><br><br><b>Not applicable</b> | <b>Frequency of meetings</b><br><br><b>When required</b> |
| <b>Functions/Purpose</b>   |   |  | <b>Delegations</b>                                       |
| To consider appeals in respect of decisions by the Chief Officer responsible for Financial Services under Sections 47 and 49 of the Local Government Finance Act 1988 (appeals from non-domestic rate payers in respect of decisions on requests for discretionary rate relief). |   |  |  |
| <b>Procedures</b>  |   |  |  |
| <b>Codes</b>   | <b>Part 5.1 – Code of Conduct for Councillors</b> |  |  |

### 3.3.5 Joint arrangements with other local authorities

| South East Parking Partnership Joint Committee  |   |  |  |
|---|---|--|--|
| <b>Membership:</b><br><b>Seven</b><br>(one Executive Councillor from each of Essex, Basildon, Castle Point, Chelmsford, and Rochford Councils and one Policy Committee Councillor from each of Brentwood and Maldon Councils)   |   |  |  |
| <b>Quorum</b><br><br><b>THREE</b>   | <b>Substitutes</b><br><br><b>Either another Cabinet Councillor or a Policy Committee Councillor</b> | <b>Politically Balanced</b><br><br><b>NO</b> | <b>Frequency of meetings</b><br><br><b>At least 4 times a year</b> |
| <b>Functions/Purpose</b>  |   |  | <b>Delegations</b>   |
| The Joint Committee shall exercise the following functions;<br>1. Collection of charges for on street parking within the permitted parking area;<br>2. The administration of residents' parking schemes and the collection of charges for permits;<br>3. Issuing Penalty Charge Notices;<br>4. Deal with all correspondence, appeals, adjudication and representations to the Traffic Tribunal arising from those functions set out where appropriate;<br>5. Take steps necessary to recover payments and charges due under these functions;<br>6. Immobilisation, removal, recovery, storage and disposal of vehicles in connection with the above activities; |   |  |  |

|   |   |
|---|---|
| <ol style="list-style-type: none"> <li>7. Procurement and maintenance of signs and lines relating to on-street enforcement;</li> <li>8. Determine the levels and nature of fees and charges in respect of on street car parking provisions in South Essex;</li> <li>9. Establish and manage the cost of the operation incurred under the Joint Committee;</li> <li>10. Decide how any surplus is re-invested in parking services;</li> <li>11. The Council shall retain responsibility, and budget, for the commissioning of traffic regulation orders during the first year of the Operational Period except for the City of Chelmsford;</li> <li>12. The Council shall retain responsibility and budget for signs and lines backlog and ongoing maintenance during the first year of the Operational Period;</li> <li>13. Provide a forum to discuss strategic issues relating to parking across South Essex;</li> <li>14. Provide a forum to review at a strategic level the success of the Joint Committee;</li> <li>15. Set local parking policies, ensuring that primary legislation obligations are met. This includes design of parking policies with respect to;             <ol style="list-style-type: none"> <li>i) Traffic network;</li> <li>ii) Safety;</li> <li>iii) Environment</li> <li>iv) Public transport quality and accessibility;</li> <li>v) Disabled persons;</li> <li>vi) Kerb space demands;</li> </ol> </li> <li>16. The Joint Committee may make relevant traffic regulation orders as permitted under the Road Traffic Regulation Act 1984, save that the Council shall retain the funds as allocated by the Council in relation to this function during the first year of the Operational Period, upon which the Joint Committee may draw down from during this time. The Joint Committee shall review this function and agree future provisions with the Council for the funding and operation to be exercised during the remainder of the Operational Period.</li> </ol> |   |
| <b>Procedures</b>   |   |
| <b>Codes</b>  | <b>Part 5.1 – Code of Conduct for Councillors</b> |

## **Part 3.4      DELEGATIONS TO OFFICERS**

### **3.4.1      General Power of Competence, Delegations and General Principles under which this Scheme will operate**

3.4.1.1      The Chief Executive and Directors of Services shall have authority (the general power of competence) to act in relation to all matters within their areas of responsibility.

3.4.1.2      This general power of competence shall, within any area of responsibility, include, but not in any way be limited to, the following:

- a)      financial management including budgeting, monitoring of budgets, and charges for services in accordance with the Council's Financial Rules;
- b)      matters connected with management of staff including recruitment, terms and conditions of employment and dismissal in accordance with the Council's disciplinary, recruitment and competency procedures;
- c)      management of performance, including service planning and performance indicators;
- d)      liaison with Cabinet members and other councillors;
- e)      development of policies and strategies;
- f)      development and management of external partnerships;
- g)      act as the Council's Proper Officer or Authorised Officer under any legislation relevant to the service;
- h)      respond as statutory consultee on any matter relevant to the service for which they are responsible;
- i)      service of statutory notices;
- j)      grants of licences and consents;
- k)      issue of authority to enter land for the purposes of inspection, or to execute works;
- l)      negotiations for contracts for supplies, goods and services subject to compliance with the Council's Contracts Rules;
- m)      negotiation of agreements;
- n)      management of land or premises;
- o)      apply for planning consents;

- p) establish the level of any new fee or charge for the service for which they are responsible, in consultation with the appropriate Cabinet member, provided:
  - it generates no more than £50,000 in a full year. Above this level and up to £250,000 Cabinet and above £250,000 Council approval is required;
  - the average increase in yield or price for the service is at or below the rate of inflation set within the annual Budget Guidelines; and
  - the Chief Executive is consulted in advance of any change being agreed.
- q) approve the making of arrangements with other local authorities for the placing of staff at the disposal of those authorities.

- 3.4.1.3 In consultation with the relevant Cabinet Member or Chair, to make minor changes to existing policies and strategies.
- 3.4.1.4 A manager may make onward delegation of any matter to another officer, subject to any statutory restriction applicable to such delegation, or any restriction contained in the Council's Constitution. A copy of the onward delegation must be provided to the Council's Monitoring Officer.
- 3.4.1.5 In the absence of any officer to whom a delegation (including an onward delegation) is made, that delegation shall be exercised by that officer's manager. In the absence of the Chief Executive, any matter delegated to them shall be exercised by the appropriate Director (see also paragraph 3.4.2.21).
- 3.4.1.6 This general power of competence shall not include any matter expressed to be specifically delegated to a particular officer under any part of the Council's Constitution or following a decision of the Council, the Cabinet or any other Committee of the Council.
- 3.4.1.7 Any delegation exercised under this scheme must be in accordance with adopted policies and strategies of the Council.
- 3.4.1.8 Specific delegations to individual officers or post-holders are set out in the remainder of this scheme and include a:
  - 1. statement of functional responsibility
  - 2. statement of any functions expressly delegated to that officer
  - 3. statement of any restrictions on the exercise of any matter within the area of responsibility
- 3.4.1.9 Where any restriction in this scheme requires consultation with a Cabinet member, or another Director or officer, a written record of the details of the consultation shall be made.
- 3.4.1.9 References to legislation in this Scheme shall be interpreted to incorporate any legislation amending or replacing it.



### **3.4.2 Chief Executive**

#### General Responsibilities

- 3.4.2.1 Act as the Head of Paid Service under the Local Government and Housing Act 1989.
- 3.4.2.2 Overall management of the Council and its resources.
- 3.4.2.3 Development and implementation of the Council's strategies.
- 3.4.2.4 Liaison with Councillors.
- 3.4.2.5 Development of external partnerships, including the Local Strategic Partnership and the Community Safety Partnership.
- 3.4.2.6 Management of elections and the exercise of all functions of the
- Returning Officer at City and Parish Council elections;
  - Deputy Returning Officer at County Council elections;
  - Acting Returning Officer at Parliamentary elections;
  - Local Returning Officer at European Parliamentary elections;
  - Returning or Counting Officer (whether acting in their own right or on appointment by others) in respect of elections or referendums of any other description held in the City; and
  - Electoral Registration Officer for Chelmsford.
- 3.4.2.7 Oversight of the Council's Chief Finance Officer under S151 of the Local Government Act 1972.
- 3.4.2.8 The internal audit service.

#### Specific Delegations

- 3.4.2.9 Deal with any matter on grounds of urgency, following consultation with the Leader of the Council, or the Chair and Vice Chair of the appropriate committee in respect of non-executive matters.
- 3.4.2.10 Identify and designate polling places and polling stations to serve polling districts in Chelmsford.
- 3.4.2.11 Amend the designation of any post.
- 3.4.2.12 Withhold increments of salary for any officer in accordance with the Council's Scheme of Conditions of Service following consultation with the Director of Connected Chelmsford.
- 3.4.2.13 Approve the implementation of nationally or locally agreed salary and wages awards following consultation with the Section 151 Officer and subject to adequate budgetary provision being available.

- 3.4.2.14 Exercise intervention powers in accordance with the Council's disciplinary procedures following consultation with the Director of Connected Chelmsford.
- 3.4.2.15 Approve the making of arrangements with other local authorities for the placing of staff at the disposal of those authorities.
- 3.4.2.16 Decisions on requests for flexible retirement by employees, other than the Chief Executive or Directors, subject to these being determined:
- a) in accordance with the Council's adopted policy; and
  - b) after consultation with the Director of Connected Chelmsford.
- 3.4.2.17 Decisions on requests for flexible retirement by Directors, subject to these being determined:
- a) in accordance with the Council's adopted policy and the other Rules (Employment and Financial) and requirements in the Constitution; and
  - b) after consultation with the Cabinet Member for Connected Chelmsford, the relevant Portfolio-holder for the services for which the Director is responsible and the Director of Connected Chelmsford (except where the Director of Connected Chelmsford has made the request in which case the service manager for Human Resources shall be consulted).
- NOTE: Decisions on requests by the Chief Executive for flexible retirement shall be dealt with by the Director of Connected Chelmsford in accordance with paragraph 3.4.3.32 of this Officer Scheme of Delegation.
- 3.4.2.18 Decisions on requests for discretionary compensation severance payments for redundancy and payments and the approval of payments for early retirement by Directors, subject to these being determined:
- a) in accordance with the Council's adopted policy and the other Rules (Employment and Financial) and requirements in the Constitution; and
  - b) after consultation with the Cabinet Member for Connected Chelmsford and the Portfolio-holder for the relevant service area affected.
- NOTE: Decisions on requests by the Chief Executive and other employees shall be dealt with by the Director of Connected Chelmsford in accordance with paragraph 3.4.3.33 of this Officer Scheme of Delegation.
- 3.4.2.19 Determine the membership of the Independent Remuneration Panel and convene the Panel when a review of members' allowances is due or required.
- 3.4.2.20 Negotiate suitable terms in accordance with the Superannuation Regulations and the Local Government (Compensation for Premature Retirement) Regulations, except where negotiations concern the Chief

Executive this delegation shall be to the Director of Connected Chelmsford.

- 3.4.2.21 Make ex gratia payments of up to £2,000 in consultation with the appropriate Director.

Restrictions on the exercise of functions

- 3.4.2.22 Prior consultation with the appropriate Cabinet member in respect of:
- a) elections to the Local Government Association and the Association of Essex Councils;
  - b) the dates of closure of the Council's offices, and leave arrangements in respect of public holidays; and
  - c) appointment of an Appeals Panel, comprising three non-executive members of the Council, to hear appeals under the Council's Disciplinary and Grievance Procedures.
- 3.4.2.23 Decisions on requests for discretionary compensation severance payments for redundancy and the approval of payments for early retirement, by employees, other than the Chief Executive or Directors, subject to these being determined in accordance with the Council's adopted policy and the other Rules ([Employment](#) and [Financial](#)) and [requirements](#) in the Constitution.

NOTE: Decisions on requests by the Chief Executive and Directors shall be dealt with by the Director of Connected Chelmsford or Chief Executive respectively in accordance with paragraphs 3.4.3.33 and 3.4.2.18 of this Officer Scheme of Delegation.

Deputising for the Chief Executive

- 3.4.2.24 No one officer shall have a general authority to act as deputy to or assume any of the duties and responsibilities of the Chief Executive. Instead, in the absence of the Chief Executive any one of the Directors will have the authority to assume the duties and responsibilities of that post; in any given circumstances, the Director most qualified and appropriate to do so will perform the function(s) or take the required decision(s).
- 3.4.2.25 **Section 151 Officer**
- 3.4.2.26 Management of all the Council's financial resources, including ledger and treasury management (including Banking).
- 3.4.2.27 Payments to suppliers and debt management.
- 3.4.2.28 Management of the budget setting and monitoring arrangements.

- 3.4.2.29 Administration of the staff scheme for car leasing and car loans.
- 3.4.2.30 Develop and manage the policy and procedures for budget making and monitoring of budgets.
- 3.4.2.31 Approve the carry forward of financial resources into the revenue estimates for the following year subject to carry forward criteria.
- 3.4.2.32 Approval of transfers between the estimates of one Director to another.
- 3.4.2.33 Approval of transfers within one Director's estimates, subject to virement criteria.
- 3.4.2.34 Approve increases in revenue expenditure over the approved estimate, subject to any supplementary estimate criteria relevant Cabinet member, and the Cabinet Member responsible for Finance.
- 3.4.2.35 Settle all debt write offs with an annual statement of write off to the Cabinet Member responsible for Finance.
- 3.4.2.36 Prior consultation with the Cabinet Member responsible for Finance on:
  - a. the calculation of the Council's tax base for the purpose of setting the following year's Council Tax;
  - b. approving the tax bases calculated for each of the areas arising under Section 35 of the Local Government Finance Act 1992 (precepts issued by Parish Councils and Special Expenses); and
  - c. approving the annual revised estimate of the Collection Fund,

### **3.4.3 Director of Connected Chelmsford**

#### General Responsibilities

- 3.4.3.1 Legal services to the Council.
- 3.4.3.2 Support for the democratic functions of the Council and the Mayor.
- 3.4.3.3 Human Resources.
- 3.4.3.4 ICT services.
- 3.4.3.5 Town Centre management.
- 3.4.3.6 Communications and public involvement.
- 3.4.3.7 Marketing and corporate events, including the special events programme.

- 3.4.3.8 Street naming and numbering.
- 3.4.3.9 The Policy and Performance Team.
- 3.4.3.10 Town Twinning.
- 3.4.3.11 Reception, telephone and public information services.
- 3.4.3.12 Provision, development and maintenance of arts facilities, theatres and arts activities.
- 3.4.3.13 Provision, management and maintenance of museums, museum facilities and collections and museum activities.
- 3.4.3.14 Management of Council Tax and NNDR functions.
- 3.4.3.15 Management of Housing Benefit administration.
- 3.4.3.16 Administration of the Business Improvement District Levy, including its billing, collection and transfer to the Business Improvement District company.
- 3.4.3.17 Benefit Fraud Investigation.
- 3.4.3.18 Procurement policy and advice.
- 3.4.3.19 Insurance arrangements and claims handling.
- 3.4.3.20 Risk management.
- 3.4.3.21 Grants to voluntary organisations.

Specific Delegations

- 3.4.3.22 Procurement of ICT equipment and software.
- 3.4.3.23 Completion of agreements with other public bodies under the Local Authority (Goods and Services) Act 1970.
- 3.4.3.24 Development and management of personnel policies and procedures.
- 3.4.3.25 Advice and support on personnel matters.
- 3.4.3.26 Training.
- 3.4.3.27 Recruitment of staff.
- 3.4.3.28 Disciplinary policies and procedures.
- 3.4.3.29 Welfare support.
- 3.4.3.30 Payroll administration.
- 3.4.3.31 Whistleblowing matters.

- 3.4.3.32 Decisions on requests by the Chief Executive for flexible retirement, subject to these being determined:
- a) in accordance with the Council's adopted policy; and
  - b) after consultation with the Cabinet Member for Connected Chelmsford, the Leader of the Council and the Section 151 Officer

NOTE: All other requests for flexible retirement will be dealt with by the Chief Executive in accordance with paragraphs 3.4.2.16/17 of this Officer Scheme of Delegation.

- 3.4.3.33 Decisions on requests for discretionary compensation severance payments for redundancy and the approval of payments for early retirement by the Chief Executive, subject to these being determined:
- a) in accordance with the Council's adopted and the other Rules (Employment and Financial) and requirements in the Constitution
  - b) after consultation with the Cabinet Member for Connected Chelmsford and the Leader of the Council

NOTE: Decisions on requests by the Directors and other employees shall be dealt with in accordance with paragraph 3.4.2.18 of this Officer Scheme of Delegation.

- 3.4.3.34 Approve the making of arrangements with other local authorities for the placing of staff at the disposal of those authorities.

- 3.4.3.35 Legal proceedings to recover unpaid Council Tax and NNDR, subject to authorisation of officers in accordance with paragraph 3.4.1.4.

- 3.4.3.36 Administer a simple caution.

#### Restrictions on the exercise of functions

- 3.4.3.37 Prior consultation with the appropriate Cabinet member in respect of applications for grants to voluntary organisations that provide services to the community.

- 3.4.3.38 Prior consultation with the Cabinet Member responsible for Finance on any necessary decisions regarding consultation on the Local Council Tax Support Scheme.

### **3.4.4 Legal and Democratic Services Manager**

#### Specific Delegations

- 3.4.4.1 Act as the Monitoring Officer under the Housing and Local Government Act 1989 and the Local Government Act 2000.

- 3.4.4.2 Approve the administration of a simple caution in accordance with current legislation and guidance.
- 3.4.4.3 Authorise, approve, institute, defend, participate, settle and give undertakings in any legal proceedings (including criminal proceedings, prospective proceedings and potential disputes) where such action is required to protect the interests of the Council or the City or some or all of its inhabitants, workers or visitors or to give effect to decisions of the Council or those authorised on its behalf and to execute such documents as are required to give effect to such decisions.
- 3.4.4.4 Consider, having due regard to statutory and other guidance, and approve or otherwise, recommendations from Service Managers for prosecutions by the Council and to take any action required to institute, manage or withdraw such proceedings including the laying of informations, the lodging of appeals and the execution of documents required to give effect to such decisions.
- 3.4.4.5 Instruct and manage counsel and solicitors where their services are required in connection with any legal matter or proceeding.
- 3.4.4.6 Authorise any officer to appear before the Magistrate's Court, the County Court, or any other tribunal.
- 3.4.4.7 Sign all conveyances, leases (excluding those for plant and equipment) and similar and associated documents.
- 3.4.4.8 Seal documents in accordance with the Council's Constitution.
- 3.4.4.9 Amend this scheme of delegation to reflect changes in areas of responsibility or legislation.

### **3.4.5 Director of Public Places**

#### General and Responsibilities

##### *Leisure, Hylands House and Estate*

- 3.4.5.1 Provision, development and maintenance of leisure and sports facilities and sports activities.
- 3.4.5.2 Hylands House and Stables Visitor Centre including events at Hylands Estate.

##### *Parks and green spaces*

- 3.4.5.3 Provision, management and maintenance of parks and open spaces (including Hylands Park Estate), sports and playing fields, trees, woodlands, commons, countryside areas and local nature reserves in the City and their strategic development and use.
- 3.4.5.4 Landscaping and grounds maintenance of Council owned and other land.
- 3.4.5.5 Allotments, horticultural services and the Countryways service.
- 3.4.5.6 Provision, management and maintenance of equipped play areas and other play facilities.
- 3.4.5.7 Promoting and encouraging biodiversity in the City.
- 3.4.5.8 Events in parks and green spaces (with the exception of Hylands Estate).

##### *Street Care and Recycling and Waste Collection services*

- 3.4.5.9 Development of the Council's recycling and waste collection strategy.
- 3.4.5.10 Collection of waste and materials for recycling and composting from domestic households and business and other commercial premises.
- 3.4.5.11 Provision, management and maintenance of public toilets.
- 3.4.5.12 Street cleansing and other street care services.

##### *Depot and premises management*

- 3.4.5.13 Major depot facilities for the Council.
- 3.4.5.14 Vehicle maintenance workshop.
- 3.4.5.15 Goods Vehicles Operators Licences and any necessary Environmental Permits.
- 3.4.5.16 Management of Chelmsford Market, other street trading activities and shopmobility scheme.



- 3.4.5.17 Placing of tables, chairs and umbrellas on the highway under section 115A of Part VIIA of the Highways Act 1980.

*Community safety*

- 3.4.5.18 Education, advice and enforcement in relation to community safety and anti-social behaviour.
- 3.4.5.19 Community Safety Partnership.
- 3.4.5.20 Management of CCTV systems.
- 3.4.5.21 Emergency planning, business continuity and community resilience.
- 3.4.5.22 Prevent strategy.
- 3.4.5.23 Protection of children and vulnerable people through appropriate safeguarding measures.
- 3.4.5.24 Arrangements for undertaking serious case reviews and/or domestic homicide reviews.

*Public Health & Protection Services*

- 3.4.5.25 Abandoned vehicles.
- 3.4.5.26 Civil engineering, including land drainage matters.
- 3.4.5.27 Provision, development and management of the Cemetery and Crematorium.
- 3.4.5.28 Drainage matters under Public Health legislation.
- 3.4.5.29 Licensing functions within the responsibility of the Authority.
- 3.4.5.30 Statutory nuisance.
- 3.4.5.31 Provision of water supplies.
- 3.4.5.32 Pest control matters.
- 3.4.5.33 Animal welfare, including stray dogs.
- 3.4.5.34 Public health.
- 3.4.5.35 Education, advice and enforcement in relation to food safety and hygiene services and legislation.
- 3.4.5.36 Education, advice and enforcement in relation to health and safety services and legislation within the Council and the community.
- 3.4.5.37 Education, advice and enforcement in relation to the protection and improvement of the environment.

- 3.4.5.38 Assessing the quality, condition and quality of management of the housing stock in the social and private sectors, and, where appropriate:
- a) developing and implementing measures to bring empty properties into use;
  - b) working with private landlords, and implementing measures to improve standards of property and management in the private rented sector using relevant statutory powers, including through landlord accreditation schemes;
  - c) implementing measures to improve private homes, including providing assistance to home owners on low incomes to maintain their homes to a decent standard;
  - d) administering and enforcing mandatory and additional HMO licensing schemes;
  - e) promoting energy efficient homes including administering grants for energy efficiency;
  - f) administering and awarding grants for house renovation and repair; and
  - g) administering grants for aids and adaptations.

*Building Services*

- 3.4.5.39 Management, maintenance and site security of the Civic Centre buildings and land.
- 3.4.5.40 Reprographics facilities.
- 3.4.5.41 Porterage facilities.
- 3.4.5.42 Arrangements regarding access for persons with disabilities to the Council's properties.
- 3.4.5.43 Architecture and design services.
- 3.4.5.44 Maintenance of all Council buildings in conjunction with the appropriate Director/premises manager.

*Partnerships*

- 3.4.5.45 Support and keep under review of the Council's significant partnerships including the Local Strategic Partnership and Community Safety Partnership.

*Corporate Property Management*

- 3.4.5.45A General property management.
- 3.4.5.46 Negotiate and agree (taking valuation advice where appropriate) terms for all disposals or acquisitions (including, for example, but not limited to leases, sales and easements) of land and or buildings, after consultation with the Cabinet Member for Fairer Chelmsford.
- 3.4.5.47 Approve disposal of land in accordance with the terms of the General Consent 2004 (taking valuation advice) following consultation with the appropriate Cabinet member.

*Other functions*

- 3.4.6.48 Determining the eligibility of requests for commemoration under the 'blue plaque' scheme.

Specific Delegations to the Director of Public Places

- 3.4.5.49 The creation, diversion, extinguishment and stopping up of rights of way under the Highways Act 1980 and all other enabling powers, in consultation with the Director of Sustainable Communities.
- 3.4.5.50 Administer a simple caution.
- 3.4.5.51 Implement and manage the Late Night Levy.

Restrictions on the exercise of functions

- 3.4.5.52 After consultation with the appropriate Cabinet Members, to allocate all or any building maintenance budgets according to priority on an ongoing basis.
- 3.4.5.53 Prior consultation with the Cabinet Members responsible for Finance and for Parks in respect of proposals for fees and charges associated with major events, including the annual music festival in Hylands Park.
- 3.4.5.54 Referral to Cabinet of proposals under paragraph 3.4.5.46 that are over £200,000.
- 3.4.5.55 Prior consultation with the appropriate Cabinet member in respect of:
- terms to be included in leases that are not standard terms for the type of lease;
  - terms of leases for periods of more than three years;
  - terms for disposals of land (whether freehold or leasehold); and
  - grants of easements over Council property.
- 3.4.5.56 Prior consultation with the Leader of the Council on the service of notice to quit on a tenant of land in the Council's ownership and thereafter take any appropriate action to recover possession of that land if early possession is not required.

### **3.4.6 Public Health & Protection Services Manager**

#### Specific Delegations

- 3.4.6.1 Institute prosecutions under the Health and Safety at Work Act 1974.
- 3.4.6.2 Exercise the functions of the Surveyor under the Public Health Amendment Act 1890.
- 3.4.6.3 Issue appointments under S19 Health and Safety at Work Act 1974 and make all authorisations to inspectors for the purposes of the Act.
- 3.4.6.4 Exercise all the functions of the Authority (including the appointment of persons external to the Council who exercise functions in connection with the control of communicable diseases (currently the Consultant in Communicable Disease Control) to act as Proper Officer for the receipt of notifications under the Public Health (Control of Diseases) Act 1984 and the Health Protection (Notification) Regulations 2010 and to authorise other officers so to act.
- 3.4.6.5 Exercise the functions of the Authority under the Gambling Act 2005 and set fees in accordance with Regulations made under that Act.
- 3.4.6.6 Exercise the functions of the Authority under the Licensing Act 2003.
- 3.4.6.7 Refuse applications for Hackney Carriage and Private Hire Vehicle Driver's Licences in case of four consecutive failed local knowledge tests and advise applicants that no further application is likely to be granted within twelve months.
- 3.4.6.8 Amendment of any Policy related to the requirements for trading on streets within the City Council's area Consent Trading policy, in consultation with the Chair and Vice Chair of the Licensing and Regulatory Committee.
- 3.4.6.9 Proposals for consents for Street Trading in streets designated consent streets pursuant to the Local Government (Miscellaneous Provisions) Act 1982 for events of up to three days' duration.

#### Restrictions on the exercise of functions of Director of Public Places and Public Health & Protection Services Manager

- 3.4.6.10 Prior consultation with the appropriate Cabinet member in respect of:
  - a. determination of applications for environmental grants; and
  - b. determination of grants for disabled facilities in excess of £30,000.
- 3.4.6.11 Referral to the Regulatory Committee in respect of:

- a. applications (including renewals) for hackney carriage and private hire licences where the applicant has more than 6 penalty points on his/her licence or does not meet the current policy requirements, save where the Regulatory Committee has previously determined that an application need not be referred back to it, and can instead be determined by officers under delegated powers;
- b. applicants for private hire licences who have convictions or who do not meet the current policy requirements; and
- c. applications for a private hire licence where the circumstances of the applicant have changed since the grant of a previously held licence.

3.4.6.12 Referral to the Licensing and Regulatory Committee in respect of:

- a applications for personal licences where there is a police objection, or the applicant has unspent convictions;
- b application for premises/club premises licence or variation to such licence where a relevant representation is made;
- c application for provisional statement where a relevant representation is made;
- d application to vary designated premises supervisor where a police objection is made;
- e application for transfer of premises licence where there is a police objection;
- f application for interim authorities where there is a police objection;
- g application to review premises/club premises certificate;
- h decision to object when the local authority is consultee and not the relevant authority considering the application; and
- i determination of a police objection to a temporary event notice

3.4.6.13 Act in respect of applications under the Gambling Act 2005 in accordance with the scheme of delegation approved by the Licensing Committee on 15 March 2007.

3.4.6.14 Act in respect of applications under the Licensing Act 2003 in accordance with the scheme of delegation approved by the Licensing Committee on 17 May 2012.

3.4.6.15 After consultation with the appropriate Cabinet Members, to allocate all or any building maintenance budgets according to priority as agreed with them, on an ongoing basis.

### **3.4.7 Director of Sustainable Communities**

#### General Responsibilities

##### *Planning*

- 3.4.7.1 Development Management, including decisions and representations on all planning and other applications.
- 3.4.7.2 Negotiation, settlement or variation of planning obligations (Section 106 Agreements and Unilateral Undertakings).
- 3.4.7.3 All matters relating to the enforcement of planning controls (including but not limited to enforcement notices, stop notices, temporary stop notices, CIL stop notice, breach of condition notices, S215 notices, building preservation notices etc).
- 3.4.7.4 Tree control.
- 3.4.7.5 Preparation, consultation and monitoring of planning policies and proposals within statutory development plans, supplementary planning documents and planning guidance.
- 3.4.7.6 Implementing the Community Infrastructure Levy in accordance with section 205 of the Planning Act 2008.
- 3.4.7.7 Proposals to approve, revoke, modify or discontinue use orders where no compensation is involved.
- 3.4.7.8 Applications for certificates of lawfulness of existing use or development (CLEUD).

##### *Building Control*

- 3.4.7.9 Management of statutory building control functions.

##### *Parking Services*

- 3.4.7.10 Management of car parks and administration of parking control.

##### *Strategic Housing Services*

- 3.4.7.11 Management of housing register and allocations
- 3.4.7.12 Homeless administration
- 3.4.7.13 Housing advice service
- 3.4.7.14 Management of retained housing

- 3.4.7.15 Assessing current and future need for affordable housing, including addressing the housing and housing related needs of vulnerable people and minority groups
- 3.4.7.16 Tracking and analysing key trends and dynamics in the local housing market
- 3.4.7.17 Enabling the provision of affordable housing

*Other functions*

- 3.4.7.18 Strategic infrastructure development, economic development, local employment and tourism.
- 3.4.7.19 Local Land Charges and Local Land and Property Gazetteer.

Restrictions on the exercise of functions

- 3.4.7.20 Prior consultation with the appropriate Cabinet member in respect of:
  - a) responses to government consultation on planning policies and documents, and
  - b) approving the discharge of expenditure from the Infrastructure Fund towards the costs of necessary infrastructure after consultation with the Cabinet Members responsible for Planning and Economic Development and Finance and the Leader of the Council in the case of expenditure in excess of £100,000.
- 3.4.7.21 Referral to the Planning Committee of:
  - a) proposals where a representation has been received before the end of the consultation expiry date that is contrary to the recommendation of the appropriate officer, and a City Councillor(s) for the ward or wards in which the proposal is intended to take place has notified officers on or before the consultation expiry date that they wish the case to be reported to Members for determination;
  - b) proposals which would have the effect, either cumulatively or otherwise, of granting permission, consent or other approval for matters previously refused by Members;
  - c) proposals to which The Town and Country Planning (Consultation) (England) Direction 2009 applies where it is not proposed to refuse planning permission, such that consultation with the Secretary of State is required under Paragraph 9;
  - d) proposals (other than the submission of details required by condition) identified as being submitted by or on behalf of the City Council, or in respect of land in which the City Council has an interest that would be affected by the proposal, and an adverse representation or comment has been received;

- e) proposals, except for applications for certificates of lawfulness, identified as being submitted by or on behalf of City Councillors or employees where an adverse representation or comment has been received, unless the Monitoring Officer has notified the Director of Sustainable Communities Services in writing that they are satisfied that the delegation may be exercised in the case concerned;
  - f) proposals to approve, revoke, modify or discontinue use orders where compensation is involved;
  - g) proposals to confirm or modify a tree preservation order where an objection has been received and where a City Councillor has requested that the case be reported to Members for determination; and
  - h) decisions whether it is expedient to issue an enforcement notice where the Director of Sustainable Communities, after consultation with the Chair and Vice-Chair of the Planning Committee, considers the case should be reported to Members for determination. (If the Vice Chair is of the same political group as the Chair, the spokesperson of the largest minority group will also be consulted.)
- 3.4.7.22 Referral to the Cabinet of approval for any new or amended Council policies that support the implementation of the Community Infrastructure Levy (CIL) or their withdrawal.
- 3.4.7.23 Confirm Article 4 Directions under the Town and Country Planning (General Permitted Development) Order 2015 where there are no objections following publication of a notice under paragraph 1 of Schedule 3 to the Order.
- 3.4.7.24 Except where urgent action is needed at short notice, diversion and stopping up of rights of way under the Town and Country Planning Act 1990, and all other enabling powers, in consultation with the Director of Public Places.

*Specific delegations*

- 3.4.7.25 Responses to consultations on Nationally Significant Infrastructure proposals as defined by section 14 of the Planning Act 2008 and other proposals of statutory bodies and agencies, and proposed changes to national planning policy and guidance.
- 3.4.7.26 All matters (including statutory functions) relating to the development and making of Neighbourhood Development Plans.



## PART 4.1

# COUNCIL PROCEDURE RULES

Note: Please refer to the [Practice Note](#) containing the current list of the persons referred to below as “Designated Officer”

## CONTENTS

|   |                |
|---|----------------|
| <b>4.1.0 Introduction</b>                               | <b>Page 3</b>  |
| <b>4.1.1 Annual Meeting of the Council</b>              | <b>Page 3</b>  |
| Timing and business                                     |                |
| Election of Leader                                      |                |
| Removal of the Leader                                   |                |
| Notification of Cabinet Members                         |                |
| Notification of Deputy Leader                           |                |
| Presentation of Leader's Scheme of Executive Delegation |                |
| Establishment and Appointment of Committees             |                |
| Appointment of Members to Non-Executive Outside Bodies  |                |
| <b>4.1.2 Ordinary Meetings of the Council</b>           | <b>Page 6</b>  |
| <b>4.1.3 Extraordinary Meetings of the Council</b>      | <b>Page 6</b>  |
| <b>4.1.4 Time and Place of Meetings</b>                 | <b>Page 6</b>  |
| <b>4.1.5 Notice and Summons</b>                         | <b>Page 7</b>  |
| <b>4.1.6 Chairing Meetings</b>                          | <b>Page 7</b>  |
| <b>4.1.7 Quorum</b>                                     | <b>Page 7</b>  |
| <b>4.1.8 Members' interests at Council meetings</b>     | <b>Page 7</b>  |
| <b>4.1.9 Behaviour of Councillors and the Public</b>    | <b>Page 7</b>  |
| When speaking   |                |
| Councillor not to be heard/leaves the meeting           |                |
| General disturbance by councillors                      |                |
| Public disorder   |                |
| General disturbance by the public                       |                |
| <b>4.1.10 Questions, Petitions and Deputations</b>      | <b>Page 8</b>  |
| Questions by the public                                 |                |
| Petitions   |                |
| Deputations   |                |
| Questions by councillors to Cabinet                     |                |
| <b>4.1.11 Proposals for Debate</b>                      | <b>Page 11</b> |
| Notice  |                |
| Scope   |                |
| Withdrawal or abandonment of proposal                   |                |
| Debate on proposals                                     |                |

|        |  |         |
|--------|--|---------|
| 4.1.12 | <b>Motions without Notice</b>                      | Page 13 |
| 4.1.13 | <b>Rules of Debate</b>                             | Page 14 |
|        | Motions normally in writing                        |         |
|        | Mover of a motion                                  |         |
|        | Seconder on a motion                               |         |
|        | Speeches on a motion                               |         |
|        | Speaking more than once                            |         |
|        | Amendments to motions                              |         |
|        | Length of Speeches                                 |         |
|        | Alteration of motion                               |         |
|        | Withdrawal of motion                               |         |
|        | Right of reply                                     |         |
|        | Procedural motions during debate                   |         |
|        | Closure motion                                     |         |
|        | Point of procedure                                 |         |
|        | Personal explanation                               |         |
| 4.1.14 | <b>Changing Earlier Decisions</b>                  | Page 17 |
| 4.1.15 | <b>Voting</b>                                      | Page 17 |
|        | Agreement by majority                              |         |
|        | Mayor's casting vote                               |         |
|        | Voting by show of hands                            |         |
|        | Recorded vote                                      |         |
|        | Record of individual vote                          |         |
| 4.1.16 | <b>Minutes</b>                                     | Page 18 |
| 4.1.17 | <b>Record of Attendance</b>                        | Page 18 |
| 4.1.18 | <b>Reports of Cabinet, Committees and Officers</b> | Page 18 |
|        | Reports for decision                               |         |
|        | Reports for information                            |         |
|        | Reports from Officers                              |         |
| 4.1.19 | <b>Members of Other Elected Bodies</b>             | Page 19 |
| 4.1.20 | <b>Recording of Council meetings</b>               | Page 20 |

**PART 4.1      COUNCIL PROCEDURE RULES**

**4.1.0      INTRODUCTION**

This Part of the Constitution sets out the Procedure Rules relating to the conduct of meetings of the Full Council. Part 4.2 contains the Rules relating to Cabinet and Committee meetings.

**4.1.1      ANNUAL MEETING OF THE COUNCIL**

**Timing and Business**

4.1.1.1 In a year in which City Council elections are held, the Annual Meeting shall take place within 21 days of the retirement of outgoing councillors. In any other year, the Annual Meeting will be held on an agreed date in May.

4.1.1.2 The Annual Meeting will: -

- a) elect a councillor to preside if the Mayor or Deputy Mayor are not present;
- b) elect the Mayor for the forthcoming municipal year and conduct any ceremony associated with that;
- c) appoint the Deputy Mayor for the forthcoming municipal year and conduct any ceremony associated with that;
- d) receive any announcements from the Mayor;
- e) elect the Leader of the Council after each ordinary election or when the position is vacant;
- f) be notified of appointments to the Cabinet, including the appointment of the Deputy Leader, and the Leader's Scheme of Executive Delegation;
- g) establish committees of Full Council, elect the chair and vice chair of those committees and appoint their members; and
- h) appoint councillors to non-executive outside bodies.

**Election of Leader**

4.1.1.3 The Leader of the Council shall be elected from among the members of the Council at the first Annual Meeting after each ordinary elections for the whole Council.

4.1.1.4 The person elected in such circumstances shall serve as Leader from the date of the Annual Meeting for a period of four years, unless they become disqualified, is removed as Leader or resigns as a councillor.

4.1.1.5 The election of the Leader shall be conducted in the following way: -

- the person presiding at the meeting shall invite nominations from
- a) among the members of the Council;
- voting on nominations shall be by way of a show of hands by those

- b) councillors present at the meeting and any decision shall require only a simple majority of those voting;  
where there is only one nomination, the Council shall vote on whether
- c) to elect that person as Leader;  
where there are two nominations, the nominee with the greater
- d) number of votes shall be elected; and  
where there are three or more nominations, the Council shall vote for
- e) each nominee. The nominee with the fewest votes will take no further part in the election (besides voting) and a further round or rounds of voting shall be carried out until one candidate has been elected.

#### **Removal of Leader**

4.1.1.6 The Leader may only be removed by a resolution of the Full Council at one of its meetings on a vote taken by the majority of councillors present and voting.

4.1.1.7 If the Leader is removed in accordance with Rule 4.1.1.6 of this Part, Full Council shall elect a new Leader at the same or next subsequent meeting. The person elected shall serve for the remainder of the former Leader's term of office unless they resign, become disqualified or are removed as Leader.

#### **Notification of Cabinet Members**

4.1.1.8 At the meeting at which the Leader is elected, or the next meeting, and at each subsequent Annual Meeting, they shall report to the Council the names of up to nine members they have appointed to serve as members of the Cabinet and details of the portfolios which they will oversee or for which they will be responsible. The Leader will also report any appointments they have made to the position of Cabinet Deputy.

4.1.1.9 Those members will normally serve as Cabinet Members and Cabinet Deputies until: -

- a) they resign;
- b) they are removed from office by the Leader; or
- c) they are no longer councillors.

#### **Notification of the Deputy Leader**

4.1.1.10 At the meeting at which the Leader is elected, or the next meeting, they shall inform Full Council which of the members of the Cabinet they have appointed as Deputy Leader. The Deputy Leader shall serve for the term of office of the Leader, unless they resign, become disqualified as a councillor or are removed by the Leader. The Leader may remove a person as Deputy Leader at any time and appoint another member of the Cabinet to the post. This will be done by notice in writing to the Legal and Democratic Services Manager, who will report the appointment to the next available meeting of the Full

Council.

4.1.1.11 If it becomes necessary to elect a new Leader, the Deputy Leader will carry out the duties of the Leader until a new Leader is elected at the next meeting of the Full Council.

4.1.1.12 If the Deputy Leader is unable to act or the office of Deputy Leader is vacant, then the Cabinet must act in their place or arrange for a Cabinet Member to act in their place.

**Presentation of Leader's Scheme of Executive Delegation**

4.1.1.13 At the meeting at which the Leader is elected, or the next meeting, they shall report to Full Council the Scheme of Executive Delegation as in rule 4.1.1.14 below.

4.1.1.14 The Leader's Scheme of Executive Delegation will specify to what extent the Council's executive powers and functions will be performed by:

- a) the Leader;
- b) the Cabinet meeting as a collective body;
- c) any committee(s) of the Cabinet;
- d) individual members of the Cabinet;
- e) officers of the Council;
- f) Joint Executive Committees; or
- g) Joint Arrangements

4.1.1.15 The Leader may at any time amend the Scheme of Executive Delegation or any function delegated by them in accordance with Rule 3.3.2.7.

4.1.1.16 As soon as possible after the meeting to which it is presented, or after any amendments are made, the Designated Officer shall incorporate or amend the Leader's Scheme of Executive Delegation in the general scheme of delegation at Part 3.3 of the Constitution.

**Establishment of, and Appointment to, Committees and other Member Bodies**

4.1.1.17 At the Annual Meeting, Full Council will decide: -

- a) which committees to establish for the forthcoming municipal year;
- b) the size of each committee;
- c) the allocation of seats to political groups in accordance with the political balance rules;
- d) the membership of each committee; and
- e) the chair and vice chair of the committees.

**Appointment of Councillors to Non-Executive Outside Bodies**

4.1.1.18 At the Annual Meeting, the Council will decide which councillors to

appoint to serve on outside bodies, unless the appointment is an Executive Function.

#### **4.1.2                    ORDINARY MEETINGS OF THE COUNCIL**

4.1.2.1                Ordinary meetings will be held on the dates set out in the programme of meetings produced annually by the Designated Officer. Ordinary meetings will: -

- a) elect a councillor to preside if the Mayor and Deputy Mayor are not present;
- b) receive any apologies for absence;
- c) approve the minutes of the last meeting;
- d) receive declarations of interest from councillors;
- e) deal with any item of business which, by law, must have precedence;
- f) receive any announcements from the Mayor;
- g) receive any questions from the public;
- h) receive petitions from the public in accordance with the Petitions Scheme in Part 4.3;
- i) receive any questions from councillors to Cabinet members;
- j) consider reports from the Cabinet, the Council's committees and officers;
- k) consider motions or Proposals for Debate;
- l) consider any other business specified on the agenda; and
- m) deal with any business brought before the Council as a matter of urgency.

#### **4.1.3                    EXTRAORDINARY MEETINGS OF THE COUNCIL**

4.1.3.1                Additional meetings of the Council may be called by: -

- a) the Council by resolution;
- b) the Mayor;
- c) the Chief Executive; or
- d) any five councillors, if the Mayor has failed to call a meeting within seven days of a signed request by those five councillors.

4.1.3.2                Only the business for which the meeting has been called will be carried out at an extraordinary meeting.

#### **4.1.4                    TIME AND PLACE OF MEETINGS**

4.1.4.1                The Full Council will normally meet at the Civic Centre, Chelmsford at 7.00pm. If meetings cannot be held at the Civic Centre, the notice of

and summons to the meeting will specify the venue.

#### **4.1.5 NOTICE OF AND SUMMONS TO MEETINGS**

4.1.5.1 The Designated Officer will give public notice of meetings in accordance with the Access to Information Rules in Part 4.6 and will send a summons to each councillor specifying the date, time and place of the meeting and the business to be transacted.

4.1.5.2 The cancellation or postponement of a scheduled meeting will follow the procedure set out in the Practice Note associated with this Rule.

#### **4.1.6 CHAIRING MEETINGS**

4.1.6.1 Meetings of the Full Council will be chaired by the Mayor or, in their absence, the Deputy Mayor. In the absence of both, the Full Council will elect a councillor to chair the meeting.

#### **4.1.7 QUORUM**

4.1.7.1 The quorum of a meeting will be one quarter of the total membership of the Full Council.

4.1.7.2 If there is no quorum 15 minutes after a meeting was due to start, the meeting will be adjourned to a date and time specified at the meeting or notified later. If at any time during a meeting there are insufficient numbers present to form a quorum the meeting will be adjourned.

#### **4.1.8 COUNCILLORS' INTERESTS AT COUNCIL MEETINGS**

4.1.8.1 A councillor must, where they have a Disclosable Pecuniary Interest (DPI) as defined under the Code of Conduct for Councillors in Part 5.1: -

- a) disclose that interest at the commencement of the meeting, or as soon as they become aware that they have such an interest, in any items under debate at that meeting; and
- b) withdraw from the meeting room, including any public areas, during the whole of the consideration of any item of business in which they have a DPI, other than where they are permitted to remain as a result of the grant of a dispensation.



#### **4.1.9 BEHAVIOUR OF COUNCILLORS AND THE PUBLIC**

##### **When speaking**

4.1.9.1 All councillors shall be entitled to speak at meetings. The Mayor is charged with ensuring that they may do so if they wish and that proceedings are conducted in a fair and orderly manner. When speaking at Full Council meetings councillors must, if able to do so, stand and address the meeting through the Mayor. If more than one councillor signals their wish to speak by standing, the Mayor will ask one to speak; the other(s) will be seated and the Mayor will give them precedence as the next speaker. Other councillors must remain seated whilst a councillor is speaking unless to make a point of procedure or point of personal explanation.

4.1.9.2 If the Mayor stands during a debate any councillor speaking at the time must stop and sit down. The meeting must be silent. The Mayor will have precedence at all times.

##### **Councillor not to be heard further/leaves the meeting**

4.1.9.3 If a councillor persistently disregards the ruling of the Mayor by behaving improperly, offensively or obstructively, the Mayor may move that the councillor be not heard further. If seconded, the motion will be voted on without discussion. The Mayor may also ask the councillor to apologise.

4.1.9.4 If the councillor continues to act improperly after a motion that they not be heard further, the Mayor may move either that the councillor leaves the meeting or that the meeting be adjourned for a specified period. If seconded, the motion will be voted on without discussion.

##### **General disturbance by councillors**

4.1.9.5 If general disturbance by councillors makes conduct of the meeting impossible, the Mayor may adjourn the meeting for as long as the Mayor thinks necessary.

##### **Public disorder**

4.1.9.6 If a member of the public interrupts proceedings, they will be warned by the Mayor. If they continue to interrupt, the Mayor will order their removal from the meeting room.

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

**4.1.10                    QUESTIONS, PETITIONS AND DEPUTATIONS**

**Questions by the public**

4.1.10.1                At each ordinary meeting of the Full Council any Citizen may, after having given their name (and address to officers), ask one question at the allotted time. The question may be put generally to the Council and the Mayor will decide who will respond to it. All questions must be submitted in writing to the Legal and Democratic Services Manager no later than 24 hours before the meeting at which it is to be asked. Copies of all questions will be made available with the agenda on the Council's website no later than six hours before the meeting. The Chair of a meeting may, at their discretion, permit a question to be put at the meeting where less than 24 hour notice has been given.

4.1.10.2                The time taken to ask each question shall not exceed two minutes and the total time for public questions at Full Council meetings shall not exceed 30 minutes.

4.1.10.3                The Mayor may disallow a question if it: -

- a)    concerns a matter for which the Council is not responsible or does not affect the City; or
- b)    is defamatory, frivolous or offensive; or
- c)    is substantially the same as another question to the same meeting; or
- d)    requires disclosure of exempt or confidential information.

4.1.10.4                No supplementary question may be asked.

4.1.10.5                Questions shall be put in the order in which they have been received, although the Mayor may group together questions on a common subject.

4.1.10.6                The person to whom a question is asked may decline to answer but shall give a reason for doing so. Where a response is given, the question will be answered without discussion and the answer given will be adequate and reasonable in the context of the question. Where a question cannot be answered orally at a meeting, a written response may be provided after the meeting.

**Petitions**

4.1.10.7                Petitions submitted directly to the Full Council shall be accepted and responded to in accordance with the Petitions Scheme in Part 4.3. The designated officer shall be responsible for the administration of the Scheme.

4.1.10.8                Where it has been decided that the Council has all the necessary information before it to make an informed decision, the petition organiser will have up to 10 minutes to present the petition at the

Council meeting.

- a) Where the subject matter relates to a Council function, councillors will debate it for up to 20 minutes and take a decision;
- b) if the subject matter relates to a function that Full Council has delegated to a Committee, it will stand referred to that Committee without discussion; or
- c) if the subject matter relates to an Executive function, it will stand referred to the Cabinet without discussion.

4.1.10.9 If it has been decided that the Council does not have all the necessary information it requires to make an informed decision, the petition organiser will be given up to 10 minutes to present the petition at the Council meeting, but the debate by councillors will then be limited to deciding where the petition should be considered at a future meeting of either:

- a) Full Council, where the subject matter relates to a Council function;
- b) another Committee if the petition relates to a function that Full Council has delegated to it; or
- c) the Cabinet, if the subject matter relates to an Executive function;

The petition organiser will receive written confirmation of the decision. This confirmation will also be published on the Council's website.

**Deputations**

4.1.10.10 Every deputation wishing to be heard by a Full Council meeting shall send a written statement to the Designated Officer 14 days before the meeting at which the deputation wishes to be heard.

4.1.10.11 The statement referred to in 4.1.10.10 above must set out the reason for the request to be heard and name the persons who will form the deputation; each deputation shall comprise not fewer than three and no more than five persons.

4.1.10.12 Every deputation shall refer to some matter in respect of which the Council has powers or duties.

4.1.10.13 Not more than two members of the deputation may address the Council and shall speak for not longer than five minutes each.

- 4.1.10.14 There shall be no debate on the matter(s) raised by the deputation but it shall be open to the Mayor to allow questions from councillors designed to aid understanding or obtain clarification of the matters raised.
- 4.1.10.15 The Mayor's consent must be given before any deputation may be heard. If such consent is withheld the Designated Officer will immediately notify all councillors of the Mayor's decision. Any 15 councillors may state, in writing to the Designated Officer at least 10 days before the meeting at which the deputation wishes to be heard, that they wish the deputation to be received.
- 4.1.10.16 Not more than two deputations may be received at any meeting of the Full Council. The order in which they are invited to address the Full Council shall be decided by the Mayor.
- Questions by councillors to Cabinet Members**
- 4.1.10.17 A maximum of one hour shall be allowed at Full Council meetings for questions to be put by councillors to the Leader and Cabinet members on matters for which they have responsibility and which are not already on the agenda.
- 4.1.10.18 Written questions must be submitted, either by letter or email, to the Designated Officer by 12 noon on the second working day before the meeting (e.g. the Monday if the meeting is on a Wednesday). Questions will be put in the order in which they are received.
- 4.1.10.19 Copies of all questions will be distributed at the meeting. Rather than read the question in full, the questioner may refer to the relevant question "as tabled".
- 4.1.10.20 Officers will prepare suggested replies to or background information on each question, if the relevant Cabinet Member so desires. The Cabinet Member may use that information in full or in part in replying to the question.
- 4.1.10.21 The questioner may either: -
- a) ask a supplementary question if it is on a point arising from the answer; or
  - b) comment on the answer to the original question. If the option to comment is chosen the Leader or Cabinet Member shall have the chance to reply.
- 4.1.10.22 As soon as possible after the meeting a record of the replies given to questions put under this Rule will be distributed to all councillors and

published on the Council's website. The record, although not necessarily a verbatim one, will accurately reflect the responses given to the initial and any supplementary questions.

#### **4.1.11 PROPOSALS FOR DEBATE**

##### **Notice**

4.1.11.1 Written notice of every Proposal for Debate at Full Council Meetings except for those which can be moved without notice (See Rule 4.1.12 below), shall be sent to the Designated Officer by midnight 14 clear calendar days before the meeting at which it is to be moved.

4.1.11.2 The Proposal for Debate must be signed (unless it is submitted in the form of an email) and must state the names of the councillors who will move and second the proposal. The Designated Officer shall date and number each notice of Proposal for Debate and shall include it on the agenda in the order in which it is received.

4.1.11.3 No councillor may have more than two Proposals for Debate at one meeting.

4.1.11.4 If in the opinion of the Designated Officer a notice of Proposal for Debate is scurrilous, improper, capricious or irrelevant, the notice shall be returned to the councillor who sent it, with a request either that it be reworded or withdrawn. If the same notice is sent again to the Designated Officer with a request for its inclusion on the agenda and that request is supported by no fewer than fifteen named councillors, the notice shall be added to the agenda and list the names of the councillors who supported its inclusion. If the re-submitted motion is delivered less than 10 days before the meeting, it shall be added to the agenda for the next meeting.

4.1.11.5 Any doubt or dispute over the content or handling of a Proposal for Debate shall be passed to the Mayor for a final decision.

##### **Scope**

4.1.11.6 Proposals for debate under Rule 4.1.11 must be about matters for which the Council is directly responsible.

4.1.11.7 A Proposal for Debate shall not be accepted if it relates to a matter already on the agenda for the same meeting.

##### **Withdrawal or abandonment of Proposals for Debate**

4.1.11.8 The councillor who submitted the Proposal for Debate may request, in writing before the meeting, that it be put to a later meeting or

withdrawn. If a proposal is not moved at the meeting it shall, unless postponed to the next meeting by consent of the Council, be treated as abandoned and shall not be put forward again without fresh notice. In the absence of the councillor who gave the notice of Proposal for Debate, any other councillor authorised by them in writing may move it unless the originator has given written notice to the Designated Officer that the notice should be withdrawn or put to a later meeting.

#### **Rules of Debate on Proposals for Debate**

4.1.11.9 The debate on a Proposal for Debate shall be conducted in accordance with the Rules of Debate (Rule 4.1.13 below).

4.1.11.10 A maximum of one hour shall be allowed for the discussion of all Proposals for Debate. The consideration of an individual proposal shall not exceed 30 minutes.

4.1.11.11 The Mayor shall inform the meeting of the names of those councillors who, in submitting a Proposal for Debate, have been deemed to have formally moved and seconded it. The mover shall then be invited to speak to the proposal. The proposal must be seconded but the seconder may, at this stage, reserve the right to speak.

4.1.11.12 The Mayor shall then invite a councillor not of the mover's political group to speak on the motion.

#### **Motion to refer a Proposal for Debate**

4.1.11.13 At the end of any councillor's speech they may move that the Proposal before the Council be referred without further discussion to the appropriate body for consideration and report. (This is known as a "motion to refer".) The reason for referring the Proposal to another body shall be given.

4.1.11.14 If a motion to refer is seconded it shall be put to the vote without further discussion.

- i. If it is lost, discussion on the original Proposal shall proceed.
- ii. If it is carried, the original Proposal shall stand referred to the appropriate body.

4.1.11.15 If no motion to refer is moved, the debate on the Proposal shall proceed.

4.1.11.16 If a motion to refer is not moved at the time described in Rule 4.1.11.12, it may be moved subsequently during the debate on a Proposal and shall follow the procedure described in that Rule.

#### **4.1.12 MOTIONS WITHOUT NOTICE**

4.1.12.1 The following motions may be moved without notice: -

- a) to appoint a Chair of the meeting;
- b) proposals relating to the accuracy of the record of the previous meeting (the minutes);
- c) to change the order of business on the agenda;
- d) to refer a matter to another body of the Council or a proposal to postpone consideration of the subject of debate;
- e) appointment of a Council body or any of its members if this arises from an item mentioned in the agenda of the meeting;
- f) adoption of reports and recommendations of a Cabinet or non-executive body or officers and any consequent resolutions;
- g) to withdraw a motion;
- h) to amend an amendment to a motion
- i) to proceed to the next business;
- j) that the question be now put;
- k) to adjourn a debate;
- l) to adjourn a meeting;
- m) to authorise the fixing of the Seal of the Council to documents;
- n) to extend the time limit for speeches;
- o) a motion of no confidence;
- p) to suspend a specified Council Rule;
- q) a motion to exclude the public from the meeting in accordance with the Access to Information Rules;
- r) that a councillor be required to leave the meeting;
- s) to give the consent of the Council where the consent of the Council is required by these Rules;
- t) to set the date of any special meeting of the Council;
- u) the Closure of debate.

**4.1.13 RULES OF DEBATE**

**How to notify an intention to move a motion<sup>1</sup>**

4.1.13.1 Every motion from a councillor, other than those set out in rule 4.1.12, must: -

- a) be dealt with in accordance with Rule 4.1.11;
- b) be submitted in writing; and
- c) given in advance to the Mayor and the Designated Officer.

**How to move a motion**

4.1.13.2 Each motion must be: -

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<sup>1</sup> See also: [Rules of Debate Practice Note, available on the Council's website.](#)

- a) formally moved and
- b) its purpose explained.

**Seconding of a motion**

4.1.13.3 Each motion must be formally seconded, but:-

- a) the seconder may either speak to the motion immediately; or
- b) reserve his right to speak and do so at the end of the debate.

**Content and length of speeches on a motion**

4.1.13.4 Speeches must relate: -

- a) directly to the motion;
- b) to a point of procedure; or
- c) to provide a personal explanation as to what was meant by an earlier comment.

4.1.13.5 The following times will be applied to the length of the speeches and the Mayor will give an indication when the time has expired: -

- a) the mover of a motion – up to 10 minutes
- b) the seconder and subsequent speakers – up to 5 minutes
- c) the mover exercising the right of reply – 5 minutes

4.1.13.6 Any speaker may request a specified extension to the time limits. The Mayor will put the request to the vote by all councillors without debate.

**Speaking more than once**

4.1.13.7 With the exception of the mover of a motion as set out in rule 4.1.13.5 c) above, a councillor may not speak more than once during a debate, other than: -

- a) where an amendment on a motion is moved and seconded, in which case a councillor can speak once on **each** amendment;
- b) to move a further amendment if the motion has been amended since they last spoke;
- c) if their last speech was to move or debate an amendment, to speak on the original or substantive motion;
- d) on a point of procedure; or
- e) to provide a personal explanation.

**Amendments to motions**

4.1.13.8 An amendment to a motion must relate to it and will either be: -

- a) to refer the matter to another body for consideration;



- b) to leave out words;
- c) to leave out words and add others;
- d) to add words.

- 4.1.13.9A An amendment should not negate the motion. With the exception of amendments referred to in Rule 4.1.13.9B below, a proposed amendment to any recommendation, motion or proposal for debate on the agenda for a meeting of the Council must be submitted in writing to the Legal and Democratic Services Manager no later than 48 hours before the meeting at which it is to be considered.
- 4.1.13.9B Amendments that relate to a report or recommendations on the setting of the annual budget must be sent to the Legal and Democratic Services Manager and the Section 151 Officer no later than noon on the second day before the meeting at which it is to be considered (i.e. by noon on the Monday if the meeting is on a Wednesday). The Section 151 Officer will assess the financial implications of the amendment. The Legal and Democratic Services Manager will otherwise assess whether the amendment is valid. Copies of any amendments submitted will be sent to the relevant Cabinet Member(s) as soon as practicable after the deadline for submission. No amendment will be notified to other councillors before that time without the express permission of the councillor who submitted it.
- 4.1.13.9C If valid, amendments will be published with the agenda for the meeting on the Council's website no later than noon the day before the meeting.
- 4.1.13.9D The exceptions to the above rule are:  
(a) technical amendments may be moved to correct factual errors;  
(b) the Legal and Democratic Services Manager will have discretion to permit amendments from members if satisfied that the need for the amendment could not have been anticipated before the deadline for its submission and that advance notice of such amendments was given as soon as reasonably practical.  
(c) a minor amendment that did not substantially affect the proposed budget and did not result in a need to amend the Council Tax resolution to be moved at the meeting without notice.

If notice of an amendment to a motion on the agenda has been received prior to the meeting, the Mayor will ask the mover of the original motion to indicate if they agree to accept the amendment. If so, and no other councillor objects, the amendment will become part of the substantive motion without debate.

4.1.13.10 Each amendment shall be dealt with before a further amendment is considered.

4.1.13.11 With the consent of the seconder, the mover of a motion may accept an amendment to it without the amendment being put to the vote.

4.1.13.12 The minutes of the meeting will record a summary of the debate, the final agreed proposal and, if required or requested, details of a recorded vote taken under Rule 4.1.15.4 below.

**Alteration of motion**

4.1.13.13 The mover of a motion may alter it with the consent, without discussion, of the meeting.

**Withdrawal of a motion**

4.1.13.14 A motion may be withdrawn in the following circumstances: -

- a) by the councillor who moved it, provided they have the consent of the meeting and that of the seconder;
- b) the Mayor will ask the meeting to vote on whether to accede to the councillor's request without debate;
- c) once a motion has been withdrawn it cannot be debated any further.

**Right of Reply**

4.1.13.15 The councillor who moved the motion may: -

- a) reply at the end of the debate just before the vote is put to the meeting; and
- b) shall have the right to reply on an amendment only at the close of the debate on that amendment and must not introduce any new issues to the debate in that closing speech.

4.1.13.16 The councillor who moved an amendment will have no right of reply during the debate of their amendment.

**Procedural motions that may be moved during the debate**

The following procedural motions may be moved during the debate on a motion:

- a) to withdraw a motion;
- b) to amend a motion;
- c) to refer a motion to another body of the Council;
- d) to proceed to the next business;
- e) that the question be now put;
- f) to adjourn the debate;
- g) to adjourn the meeting;
- h) to exclude the public in accordance with the Access to Information

- i) Rules; and  
not to hear further a member or to exclude a member from the meeting under Rules 4.1.9.3 and 4.1.9.4.

**Closure Motion**

4.1.13.18 In addition, the following procedural motions may be moved at the end of any councillor's speech:

- a) *To proceed to the next business*: If the motion is seconded, the mover of the original motion may have a right of reply before the procedural motion is put to the vote.
- b) *That the question be now put*: If the motion is seconded, the mover of the original motion may have a right of reply before the procedural motion is put to the vote.
- c) *To adjourn a debate*. If the motion is seconded, it will be put to the vote immediately. The mover of the original motion will not have the right of reply to their motion.
- d) *To adjourn the meeting*. If the motion is seconded, it will be put to the vote immediately. The mover of the original motion will not have the right of reply to their motion.

4.1.13.19 If any closure motion is not agreed then it may not be proposed again until at least 20 minutes later, unless it is moved by the Mayor.

**Point of Procedure**

4.1.13.20 A point of procedure:

- a) must relate only to an alleged breach of these rules or law;
- b) the rule or law that is alleged to have been breached must be specified; and
- c) will only be taken at the end of a speech by a councillor; unless
- d) there are exceptional and urgent circumstances, in which case the point of procedure can be taken during the speech of the councillor that was interrupted.

The Mayor will decide on any matters related to this rule without discussion.

**Personal explanation**

4.1.13.21 If a councillor believes an explanation given by them during the debate has been misunderstood the councillor:

- a) may make a personal explanation at any time, although they should wait until the councillor speaking at the time has finished their speech before doing so;
- b) can only provide the personal explanation where it relates to a part of an earlier speech by that councillor during the same debate.

4.1.13.22 The Mayor will decide without debate whether it is appropriate for the personal explanation to be made.

**4.1.14 CHANGING EARLIER DECISIONS**

- 4.1.14.1 A motion to rescind or change a decision made at a Full Council meeting in the past six months cannot be moved unless it is submitted in accordance with the Rules on Proposals for Debate above, Rule 4.1.11 and signed by at least 15 councillors, or as a recommendation from the Cabinet or a committee;
- 4.1.14.2 The motion or recommendation must fully set out the terms of the previous decision and the date on which it was made.

**4.1.15 VOTING**

**Agreement by majority**

- 4.1.15.1 Unless stated otherwise in the Constitution, any matter that is put to the vote will be decided by a simple majority of those present and voting at the time the vote is taken.

**Mayor's casting vote**

- 4.1.15.2 If there are equal numbers of votes for and against, the Mayor will have a second or casting vote which they will use or not at their discretion.

**Voting by show of hands**

- 4.1.15.3 Voting will be by a show of hands unless a recorded vote is requested under Rule 4.1.15.4 or the Mayor proposed a vote by assent.

**Recorded vote**

- 4.1.15.4 If, before a vote is taken, 10 councillors request that a record of the vote be made, the names of those voting for or against or abstaining will be recorded in the minutes. The name of each councillor present will be read in alphabetical order and each will indicate whether they are for or against the motion or wish to abstain.

**Budget decision meeting**

- 4.1.15.5 Immediately after any vote at a budget decision meeting there must be a recorded vote as described Rule 4.1.15.4 above. A "budget decision" is as set out in the Local Government and Finance Act 1992 or the issuing of a precept under that Act.

**Record of individual vote**

- 4.1.15.6 Where a member requests it immediately after a vote is taken, their vote on a matter, or whether they abstained, will be recorded in the minutes.

**4.1.16**            **MINUTES**

**Signing the minutes**

- 4.1.16.1           The minutes of a meeting will be signed by the Mayor at the next suitable meeting. There will be no discussion on them except on their accuracy. A motion to correct their accuracy must be seconded.

**Minutes of extraordinary meetings**

- 4.1.16.2           The minutes of an extraordinary meeting will be signed at the next suitable meeting of the Council, although that need not be the next meeting actually held.

**4.1.17**            **RECORD OF ATTENDANCE**

- 4.1.17.1           All councillors present for all or part of a meeting must sign their names on the attendance sheet and shall have their attendance recorded in the minutes.

**4.1.18**            **REPORTS OF CABINET, COMMITTEES AND OFFICERS**

**Reports for decision**

- 4.1.18.1           Reports requiring the approval of the Full Council will, in the case of reports from the Cabinet, be proposed by the relevant Cabinet Member or their nominated deputy. Reports from committees will be moved by the chair or vice chair or, in their absence, another member of the committee.

**Reports for information**

- 4.1.18.2           Reports which are for the information of the Full Council will be introduced by the appropriate Cabinet Member or the chair, vice chair or other member of the relevant committee. They will not require the support of a second councillor and any matters discussed will not be subject to alteration by the Full Council. Any councillor may move a formal proposal giving guidance or instructions to the body concerned in connection with the subject matter of the report. Such a motion must be seconded and may be debated before being put to the vote.

- 4.1.18.3           The chair of all main Council bodies may report to the Full Council from time to time on the activities of those bodies which they believe would be of particular interest to the Full Council and which would not otherwise be reported.

**Reports from officers**

- 4.1.18.4 A report submitted in the name of an officer shall normally be introduced and, where appropriate, moved by the Leader. In the case of some reports the Mayor may decide that it would more appropriate if another councillor did so.

#### **4.1.19 MEMBERS OF OTHER ELECTED BODIES**

- 4.1.19.1 The Full Council may invite an elected member of the Houses of Parliament or the European Parliament to speak to the Full Council on a matter being considered by the Parliaments. The member may not necessarily speak as a representative of one of those Parliaments and may answer appropriate questions. The member may speak for up to 15 minutes.
- 4.1.19.2 Any other local authority may be invited to speak by the Mayor at a time he considers appropriate. A representative shall not speak for more than 5 minutes on a single item, except with the Mayor's consent, and the Mayor may decide not to allow an objectionable item.
- 4.1.19.3 The matters which may be raised under Rule 4.1.19.2 are only those where there has been a formal consultation between the Council and the other local authority. The other authority must give prior notice to the Designated Officer of its wish to be heard, setting out the subject on which it wishes to speak, the formal consultation which took place, and the name of its representative at the meeting.

#### **4.1.20 RECORDING COUNCIL MEETINGS<sup>2</sup>**

- 4.1.20.1 Citizens and representatives of the media are entitled to make sound or visual recordings of, and to transcribe, meetings of the Council, the Cabinet, committees and sub-committees to which they have a right of access.
- 4.1.20.2 Members of the public or officers present at a meeting may not be filmed without their consent. Any persons under the age of 18 may not be filmed regardless.
- 4.1.20.3 If in the opinion of the Mayor a visual recording is disrupting the meeting they may require that it be done in such a way as to avoid disruption or be ceased if that cannot be achieved. If it is their view that the recording is contravening Rule 4.1.20.2 the Mayor shall warn the person making the recording. If the contravention continues the

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<sup>2</sup> [See Part 4.7 for the policy on recording meetings](#)

Mayor may require that the recording cease for the remainder of the meeting.

## PART 4.2

# PROCEDURE RULES FOR CABINET AND ALL COMMITTEES

Note: Please refer to the [Practice Note](#) containing the current list of the persons referred to below as “Designated Officer”



## CONTENTS

|  |        |
|--|--------|
| <b>4.2.0 Introduction</b>  | Page 3 |
| <b>4.2.1 Date, Time and Place of Meetings</b>                                    | Page 3 |
| <b>4.2.2 Notice and Agenda for Meetings</b>                                      | Page 3 |
| <b>4.2.3 Election of Chair and Vice Chair</b>                                    | Page 4 |
| - Chair and vice Chair of a committee  |        |
| - Chairing the Cabinet   |        |
| - Absence of Chair/vice Chair  |        |
| <b>4.2.4 Quorum</b>  | Page 5 |
| <b>4.2.5 Councillors' Interests</b>  | Page 5 |
| <b>4.2.6 Proportionality of Membership</b>                                       | Page 5 |
| <b>4.2.7 Membership of Committees in an Election Year</b>                        | Page 6 |
| - Re-elected members to continue   |        |
| - Committees and sub-committees  |        |
| <b>4.2.8 Sub-Committees</b>  | Page 6 |
| <b>4.2.9 Additional Meetings of Bodies</b>                                       | Page 6 |
| - Cabinet and its committees   |        |
| - Committees and sub-committees  |        |
| <b>4.2.10 Attendance at Meetings by Councillors not formal Members of a Body</b> | Page 6 |
| <b>4.2.11 Appointment of Substitutes</b>   | Page 7 |
| - Arrangements for substitutes   |        |
| - Exceptions   |        |
| <b>4.2.12 Public Disorder</b>  | Page 8 |
| <b>4.2.13 Behaviour of Councillors</b>   | Page 8 |
| - When speaking  |        |
| - Councillor not to be heard further   |        |
| - General disturbance by councillors   |        |
| <b>4.2.14 Questions by the Public</b>  | Page 8 |

|   |         |
|---|---------|
| <b>4.2.15 Petitions</b>   | Page 9  |
| <b>4.2.16 Councillors' Items of Business</b>  | Page 9  |
| <ul style="list-style-type: none"><li>- Notice</li><li>- Consideration of councillors' items</li><li>- Entitlements of sponsoring members</li><li>- Notification of decision to sponsoring member</li></ul> |         |
| <b>4.2.17 Rules of Debate</b>   | Page 11 |
| <ul style="list-style-type: none"><li>- Nature of debate</li><li>- Procedural rules</li></ul>   |         |
| <b>4.2.18 Voting</b>  | Page 11 |
| <ul style="list-style-type: none"><li>- Agreement by majority</li><li>- Chair's casting vote</li><li>- Voting by show of hands</li><li>- Recorded vote</li></ul>  |         |
| <b>4.2.19 Minutes</b>   | Page 12 |
| <b>4.2.20 Record of Attendance</b>  | Page 12 |
| <b>4.2.21 Minority Reports</b>  | Page 12 |
| <b>4.2.22 Resignation from Membership</b>   | Page 12 |
| <b>4.2.23 Other Local Authority Representation</b>  | Page 12 |
| <b>4.2.24 Recording of Meetings</b>   | Page 13 |
| <b>4.2.25 Rules specific to certain committees</b>  | Page 13 |
| <ul style="list-style-type: none"><li>- Governance</li><li>- Licensing and Regulation Committee</li><li>- Planning</li></ul>  |         |

## **PART 4.2**

### **PROCEDURE RULES FOR CABINET AND ALL COMMITTEES**

*In these Rules the term “body” refers to the Cabinet, a committee or a sub-committee*

#### **4.2.0            INTRODUCTION**

4.2.0.1            The “Procedure Rules for Cabinet and Committees” are the Rules explaining how Cabinet, Committee and Sub-Committee meetings should be conducted. These Rules must be read alongside: -

- a) The Council Meeting Procedure Rules in Part 4.1 relating to meetings of Full Council;
- b) The Executive Procedure Rules in Part 4.4 which deal with the meetings of the Cabinet and its committees;
- c) The Overview and Scrutiny Procedure Rules in Part 4.5; and
- d) The Access to Information Procedure Rules in Part 4.6.

#### **4.2.1            DATE, TIME AND PLACE OF MEETINGS**

4.2.1.1            Meetings will be held on the dates set out in the programme of meetings produced annually by the designated officer. Meetings will normally be held in public.

4.2.1.2            Meetings will normally be held at the Civic Centre, Chelmsford. If meetings are not held at the Civic Centre, the notice of and agenda for the meeting will specify the venue.

4.2.1.3            The cancellation or postponement of a scheduled meeting will follow the procedure set out in the Practice Note associated with this Rule.

#### **4.2.2            NOTICE OF AND AGENDA FOR MEETINGS**

4.2.2.1            The designated officer will give public notice of meetings in accordance with the Access to Information Rules in Part 4.6 and will send an agenda to each member of the body concerned specifying the date, time and place of the meeting and the business to be transacted.

##### **Cabinet meetings**

4.2.2.2            At least 28 days’ advance notice must be given of any meeting of the Executive to consider: -

- a) Confidential or exempt information i.e. a meeting in private;

b) A Key Decision.<sup>1</sup>

- 4.2.2.3 That information, together with an outline of any other business which it is anticipated will be considered at the meeting, will take the form of an Executive Decisions Notice published by the designated officer.

**Private meetings of the Cabinet**

- 4.2.2.4 The Council must publish a notice, as set out in Rule 4.2.2.2 and 4.2.2.3 above.

- 4.2.2.5 At least five clear working days before the meeting, a further notice must be published confirming the holding of the private meeting and providing an outline of the matters to be discussed. This will normally take the form of the agenda for the meeting and will include details of any representations made in connection with the meeting and the responses given.

- 4.2.2.6 The agreement of the Chair of the Overview and Scrutiny Committee or, in their absence, the Mayor, must be obtained to the holding of the meeting if the meeting is urgent and the necessary notice cannot be given.

**Key Decisions**

- 4.2.2.7 The Council must publish a notice as set out in Rule 4.2.2.2 above that it intends to take a Key Decision.

- 4.2.2.8 Where it is impracticable to give the full notice, five clear days' notice must be given to all members of the Overview and Scrutiny Committee.

- 4.2.2.9 When a Key Decision is urgent and five clear days' notice cannot be given, the Chair of the Overview and Scrutiny Committee must agree that the decision is urgent and cannot reasonably be deferred.

**4.2.3 ELECTION OF CHAIR AND VICE CHAIR**

**Chair and vice Chair of a committee**

- 4.2.3.1 The Chair and vice Chair of each committee for the following municipal year will be elected by the Council at its Annual Meeting. If either position becomes vacant during the year, the Full Council will elect a replacement.

**Absence of Chair/vice Chair**

- 4.2.3.2 If the Chair is absent from a meeting the vice Chair will chair the meeting. If both the Chair and vice Chair are absent, the body will elect a Chair for the meeting.

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<sup>1</sup> See also: [Key Decisions Practice Note, available on the Council's website.](#)

**Chairing the Cabinet**

- 4.2.3.3 The Leader of the Council will chair meetings of the Cabinet. The Deputy Leader will normally be the vice Chair of the Cabinet. If neither the Leader nor Deputy Leader are present then a Cabinet Member appointed to do so by those present shall preside.

**4.2.4 QUORUM**

**Committees**

- 4.2.4.1 The quorum of a meeting will be as follows: -

- a) For a body comprising up to and including 10 members – three members
- b) For a body comprising 11 or more members – five members (with the exception of the arrangements described in Rules 4.2.4.3 and 4.2.25)

- 4.2.4.2 If there is no quorum 15 minutes after a meeting is due to start, the meeting will be adjourned to a date and time specified at the meeting or notified to members of the body later. If at any time during a meeting there are insufficient numbers present to form a quorum the meeting will be adjourned.

*Exception:*

- 4.2.4.3 When hearing representations under the Licensing Act 2003 only four members of the Licensing Committee shall be expected to attend meetings at any one time. The quorum for such meetings will be three.

**Cabinet**

- 4.2.4.4 The quorum for a meeting of the Cabinet shall be three. The quorum for a Committee of the Cabinet (Executive) will be decided by the Cabinet when establishing the body.

**4.2.5 COUNCILLORS' INTERESTS**

- 4.2.5.1 A councillor must, where they have a Disclosable Pecuniary Interest (DPI) as defined under the Code of Conduct for Councillors: -
- a) disclose that interest at the commencement of the meeting, or as soon as they become aware that they have such an interest, in all or any items under debate at that meeting; and
  - b) withdraw from the meeting room, including any public areas, during the whole of the consideration of any item of business in which they have a DPI, other than where they are permitted to remain as a result of the grant of a dispensation.

**4.2.6            PROPORTIONALITY OF MEMBERSHIP**

- 4.2.6.1           All non-executive committees and sub-committees (i.e. bodies that are not the Cabinet or any of its committees) shall, in terms of their total membership and as far as possible, reflect the overall political balance of the Council.

**4.2.7            MEMBERSHIP OF COMMITTEES IN AN ELECTION YEAR**

**Re-elected members to continue**

- 4.2.7.1           After each of the four yearly elections of councillors to the City Council, those councillors who had been members of the bodies on the date of the election and who have been re-elected will form the membership of the particular body during the period between the election and the Annual Meeting of the Council.

**Committees and sub-committees**

- 4.2.7.2           In the case of bodies other than the Cabinet or its committees, if there are insufficient members re-elected, then the Mayor may appoint additional members to serve until the Annual Meeting.

**4.2.8            SUB-COMMITTEES OF COMMITTEES**

- 4.2.8.1           A committee may create formal sub-committees of such size and membership as it may decide. Each sub-committee must be politically balanced. Sub-committees will cease to exist:
- a) once the purpose for which it was set up has finished;
  - b) if the parent body ceases to exist; or
  - c) if the parent body decides to abolish it or change its function.

**4.2.8A          WORKING GROUPS**

- 4.2.8A.1          A non-Executive body may create such Working Groups of such size and membership as it may decide. Working Groups need not be politically balanced but should, where possible, comprise members of all political groups on the Council. All groups will be permitted to appoint substitute member(s) to any seat(s) allocated to their particular group.
- 4.2.8A.2          The Cabinet Member whose portfolio is most closely associated with the general work of a Working Group shall be entitled to attend its meetings and speak at them. Other Cabinet Members may, with the permission of the Chair of the Working Group, attend and speak at its meetings if it is

considering a matter related to their portfolios.

- 4.2.8A.3 Other members of the Council may, with permission of the Chair of the Working Group attend meetings of a Working Group but will not be entitled to speak.

#### **4.2.9 ADDITIONAL MEETINGS OF BODIES**

##### **Cabinet and its committees**

- 4.2.9.1 Additional meetings of the Cabinet may be called by:
- a) the Leader;
  - b) the designated officer with the approval of the Leader; or
  - c) three members of the Cabinet in writing to the designated officer.

##### **Committees and sub-committees**

- 4.2.9.2 Additional meetings of non-Executive bodies may be called by the designated officer, either with the agreement of the Chair of the body or as a result of a written request from at least a quarter of the members of the body concerned.

#### **4.2.10 ATTENDANCE AT MEETINGS BY COUNCILLORS WHO ARE NOT FORMAL MEMBERS**

- 4.2.10.1 Any councillor may attend any meeting of a Member Body and, with the consent of the Chair, speak.
- 4.2.10.2 A councillor shall have the right to speak in the following circumstances: -
- a) if they have made a proposal to the Council which has been referred for consideration to a particular body;
  - b) if they have made a request under Rule 4.2.16 of the Rules Common to Cabinet and all Committees;
  - c) if they are the ward councillor in the case of a planning application coming before the relevant committee; or under Rule 4.4.5.7 of the Cabinet Procedure Rules.

#### **4.2.11 APPOINTMENT OF SUBSTITUTES AT MEETINGS**

##### **Arrangements for substitution**

- 4.2.11.1 With the exception of meetings of the bodies referred to in Rules 4.2.11.7 and 4.2.11.8, a councillor (described in this Rule as the "appointing member") may appoint another councillor (a "substitute") to attend a meeting of a Member Body in his or her place.
- 4.2.11.2 No councillor may be a substitute who is already a member of the body

concerned.

4.2.11.3 At the start of each meeting the Chair shall ask for any substitutions to be reported, and this shall be listed in the record of the meeting.

4.2.11.4 Substitutes shall be from the same political group as the appointing member. The appointing member shall obtain the agreement of the other member to his or her appointment as a substitute.

4.2.11.5 Substitutes shall have the full rights of other members at the meeting.

4.2.11.6 Substitutes shall be appointed for the whole of a meeting, unless a meeting is adjourned to a later date in which case the substitution shall cease at the time of the adjournment.

**Exceptions**

4.2.11.7 No substitutes shall be permitted at meetings of the: -

- a) Cabinet
- b) Licensing and Regulatory Committee

4.2.11.8 Substitutes at meetings of sub-committees must be drawn from the relevant committee.

4.2.11.9 At the Annual Meeting of the Council, each Group on the Council will be permitted to nominate members to act as substitutes on the Planning and Governance Committees for the ensuing year, provided that those members receive appropriate training on the work of those committees before acting as substitutes. In the case of the Planning Committee, each Group may nominate three named members, and in the case of the Governance Committee, one named member.

**4.2.12 PUBLIC DISORDER**

4.2.12.1 If a member of the public interrupts proceedings, they will be warned by the Chair. If they continue to interrupt, the Chair will order their removal from the meeting room.

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

**4.2.13 BEHAVIOUR OF COUNCILLORS**

**When speaking**

4.2.13.1 When speaking at committee meetings councillors must address the



meeting through the Chair. If more than one councillor at a time wishes to speak, the Chair shall call on one of them to speak first.

**Councillor not to be heard further/leaves the meeting**

- 4.2.13.2 If a member persistently disregards the ruling of the Chair by behaving improperly, offensively or obstructively, the Chair may move that the member be not heard further. If seconded, the motion will be voted on without discussion. The Chair may also ask the member to apologise.

- 4.2.13.3 If the member continues to act improperly after a motion that they be not heard further, the Chair may move either that the member leaves the meeting or that the meeting be adjourned for a specified period. If seconded, the motion will be voted on without discussion.

**General disturbance by councillors**

- 4.2.13.4 If general disturbance by councillors makes conduct of the meeting impossible, the Chair may adjourn the meeting for as long as he thinks necessary.

**4.2.14 QUESTIONS BY THE PUBLIC AT MEETINGS**

- 4.2.14.1 At each meeting any Citizen may, after having given their name (and address to officers), ask one question or make a statement at the allotted time. All questions must be submitted in writing to the Legal and Democratic Services Manager no later than 24 hours before the meeting at which it is to be asked. Copies of all questions will be made available with the agenda on the Council's website no later than six hours before the meeting. The Chair of a meeting may, at their discretion, permit a question to be put at the meeting where less than 24 hour notice has been given.

- 4.2.14.2 The time taken to ask a question or make a statement shall not exceed two minutes and the total time for public questions and statements at meetings shall not exceed 20 minutes, although the Chair may agree to extend that period.

- 4.2.14.3 The Chair shall not allow a question if it: -

- a) concerns a matter for which the body is not responsible;
- b) is defamatory, frivolous or offensive;
- c) is substantially the same as another question to the same meeting; or
- d) requires disclosure of exempt or confidential information.

- 4.2.14.4 A supplementary question may be asked at the Chair's discretion. Supplementary questions are not afforded to the public at Planning Committee.

4.2.14.5 Questions shall normally be put in the order in which they have been received, although the Chair may group together questions on a common subject and may decide that questions relating to items on the agenda should be taken in conjunction with those items, rather than at the allotted time.

4.2.14.6 The person to whom a question is asked may decline to answer but shall give a reason for not doing so. Where a response is given, the question will be answered without discussion and the answer given will be adequate and reasonable in the context of the question. Where a question cannot be answered orally at a meeting, a written response may be provided after the meeting.

#### **4.2.15 PETITIONS**

4.2.15.1 Petitions submitted to the Council shall be accepted and responded to in accordance with the Petition Scheme in Part 4.3 of the Constitution. The designated officer shall be responsible for the administration of the Scheme.

#### **4.2.16 COUNCILLORS' ITEMS OF BUSINESS**

##### **Notice**

4.2.16.1 Any Councillor (referred to in this Rule as a "Sponsoring Member") may request that an item of business be placed on the agenda for a meeting. The request may take the form of a motion or an item for discussion. The request must: -

- a) be in writing and signed by the councillor (or, if in the form of an email, state formally the name of the councillor making the request);
- b) state to which body the request is being referred, the date of the meeting and precisely what the councillor wishes the body to consider or decide;
- c) be within the terms of reference of the body to which it is referred; and
- d) be received by the designated officer 14 calendar days before the meeting to which the request is being referred.

4.2.16.2 The request must not: -

- a) be scurrilous, improper, capricious or irrelevant; if the designated officer believes that it is, the Sponsoring Member will be informed and asked either to amend or withdraw the request. An amended request will only be accepted on an agenda if it is received 10 calendar days before the meeting; or
- b) relate to an item already on the agenda for the meeting.

- 4.2.16.3 The Sponsoring Member may withdraw a request under this Rule at any time.

**Consideration of Councillors' items**

- 4.2.16.4 The agenda for the meeting will set out the details of the matter a councillor has asked to be considered. It will not normally be accompanied at this stage by a written report. The body may: -

- a) consider the request and agree a response to it;
- b) refer the request to another body;
- c) defer consideration of the request to a future meeting; or
- d) ask that officers prepare a written report on the matter to a future meeting.

**Entitlements of Sponsoring Member**

- 4.2.16.5 The Sponsoring Member shall be entitled to attend the meeting to which their request has been referred and any subsequent meeting at which it is considered. If the Sponsoring Member is unable to attend the meeting, they may appoint another councillor to speak to it in their place. If the Sponsoring Member fails to attend the meeting or does not appoint another councillor to speak on their behalf, the request will be regarded as having been withdrawn.

- 4.2.16.6 If the request takes the form of a motion the following procedure will be followed:

- a) the Sponsoring Member may speak for up to five minutes on his request; the request will only be discussed further if it is formally moved and
- b) seconded by members of the body to which it has been referred;
- c) if moved and seconded, the Sponsoring Member will have a right of reply not exceeding five minutes to any subsequent debate on it before any vote is put.

- 4.2.16.7 If the request is an item for discussion, the Sponsoring Member may speak first on it for up to five minutes.

- 4.2.16.8 Rules 4.1.14 of the Council Procedure Rules relating to amendments to motions will apply to motions the subject of this Rule.

**Notification of decision to Sponsoring Member**

- 4.2.16.9 The designated officer will notify the Sponsoring Member in writing of any decision of a Member Body on his or her request.

**4.2.17 RULES OF DEBATE**

**Nature of debate**

- 4.2.17.1 Debate or discussion on items of business at committees will not normally follow the formal Rules of Debate that are applicable to Full Council meetings. In particular, there will be no limit on the number of times a member of the body may speak on an agenda item or for how long. However, the Chair will at all times have control over and discretion on the conduct of debate, which they will use to ensure that all members of the body receive, as far as possible, fair and equal opportunity and treatment.

**Procedural rules**

- 4.2.17.2 The following Council Procedure Rules will apply to members of the Cabinet, a committee or a sub-committee at meetings of those bodies:
- a) How to move a motion – Rule 4.1.14.2
  - b) Seconding of a motion – Rule 4.1.14.3
  - c) Amendments to motions – Rules 4.1.14.8-12
  - d) Alteration of motion: Rule 4.1.14.13
  - e) Withdrawal of a motion: Rule 4.1.14.14
  - f) Right of reply: Rules 4.1.14.15 and 4.1.14.16
  - g) Closure motion: Rule 4.1.14.18
  - h) Point of procedure: Rule 4.1.14.20
  - i) Personal explanation: Rule 4.1.14.21

- 4.2.17.3 Rules 4.2.16.6 and 4.2.16.7 of these Rules will only apply to motions moved by a Sponsoring Member.

**4.2.18 VOTING**

**Agreement by majority**

- 4.2.18.1 Any matter that is put to the vote will be decided by a simple majority of those present and voting at the time the vote is taken.

**Chair's casting vote**

- 4.2.18.2 If there are equal numbers of votes for and against a proposal, the Chair of the meeting will have a second or casting vote which they will use or not at their discretion.

**Voting by show of hands**

- 4.2.18.3 Unless a recorded vote is requested under Rule 4.2.18.4 or the person chairing the meeting proposes a vote by assent, voting will be by a show of hands.

**Recorded vote**

- 4.2.18.4 If, before a vote is taken, three or more councillors request that a record of the vote be made, the names of those voting for or against or abstaining will be recorded in the minutes.

**4.2.19**      **MINUTES**

- 4.2.19.1      The minutes of a meeting shall be signed by the Chair of the meeting at the next suitable meeting. There will be no discussion on them except on their accuracy. A motion to correct their accuracy must be seconded.

**4.2.20**      **RECORD OF ATTENDANCE**

- 4.2.20.1      All councillors present for all or part of a meeting must sign their names on the attendance sheet and shall have their attendance recorded in the minutes.

**4.2.21**      **MINORITY REPORTS**

- 4.2.21.1      A minority of councillors at any meeting shall not be entitled to present a formal report to the Cabinet or the Council.

**4.2.22**      **RESIGNATION FROM MEMBERSHIP**

- 4.2.22.1      Any councillor wishing to resign from a body shall give notice in writing to the designated officer and the relevant Group Secretary, where there is one, and the resignation will take effect immediately. The resignation will be reported to the next appropriate meeting of the Full Council.

**4.2.23**      **OTHER LOCAL AUTHORITY REPRESENTATION**

- 4.2.23.1      Any other local authority may be invited to speak by the Chair at meetings of an executive or non-executive body at a time they consider appropriate. A representative shall not speak for more than 5 minutes on a single item, except with the Chair's consent, and the Chair may decide not to allow an objectionable item.
- 4.2.23.2      The matters which may be raised are only those where there has been a formal consultation between the Council and the other local authority. The other authority must give prior notice to the designated officer of its wish to be heard, setting out the subject on which it wishes to speak, the formal consultation which took place, and the name of its representative at the meeting.

**4.2.24      RECORDING OF MEETINGS<sup>2</sup>**

- 4.2.24.1      Citizens and representatives of the media are entitled to make sound or visual recordings of, and to transcribe, meetings of the Council, the Cabinet, committees and sub-committees to which they have a right of access.
- 4.2.24.2      Members of the public or officers present at a meeting may not be filmed without their consent. Any persons under the age of 18 may not be filmed regardless.
- 4.2.24.3      If in the opinion of the Chair a visual recording is disrupting the meeting they may require that it be done in such a way as to avoid disruption or be ceased if that cannot be achieved. If it is their view that the recording is contravening Rule 4.2.24.2 the Chair shall warn the person making the recording. If the contravention continues the Chair may require that the recording cease for the remainder of the meeting.

**4.2.25      RULES SPECIFIC TO CERTAIN COMMITTEES**

**Governance Committee**

- 4.2.25.1      The Committee's hearing of complaints alleging misconduct by a councillor will operate in accordance with the procedures agreed by the Governance Committee and contained in Part 5.1.2.

**Licensing Committee**

- 4.2.25.2      The Committee's hearing of representations in respect of licences and its determination of applications for those licences shall operate in accordance with regulations and guidance issued under the Licensing Act 2003 and the Gambling Act 2005.

**Planning Committee**

- 4.2.25.3      The Committee's consideration of planning applications shall operate in accordance with the Planning Code in Part 5.2.
- 4.2.25.4      A member of the Committee may not take a decision on a planning matter for which the Council is responsible under the Town and Country Planning Act 1990 if the matter has previously been considered by the Committee at a meeting at which that member was not present.
- 4.2.25.5      In addition to any requirement to give notice of any questions or comments the following time limits will apply to any speakers at the committee:-

Ward councillor(s) or cabinet member(s) – 5 minutes

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<sup>2</sup> See [Part 4.7 for the policy on recording of meetings](#)

## PART 4.3

# CHELMSFORD CITY COUNCIL PETITION SCHEME

## **CONTENTS**

|              |  |           |
|--------------|--|-----------|
| <b>4.3.0</b> | <b>Introduction</b>  | <b>3</b>  |
| <b>4.3.1</b> | <b>Section 1 – How to start a petition</b>   | <b>4</b>  |
| <b>4.3.2</b> | <b>Section 2 – Requirements of the petitions scheme</b>  | <b>5</b>  |
| <b>4.3.3</b> | <b>Section 3 – Exceptions of the petitions scheme</b>  | <b>7</b>  |
| <b>4.3.4</b> | <b>Section 4 – How the Council will respond to the petition</b>                                  | <b>8</b>  |
| <b>4.3.5</b> | <b>Section 5 – How the Council will respond to petitions outside of this scheme</b>              | <b>11</b> |
| <b>4.3.6</b> | <b>Section 6 – What can you do if you are not happy with the way your petition as dealt with</b> | <b>12</b> |
| <b>4.3.7</b> | <b>Section 7 – What else can you do to have your say</b>   | <b>13</b> |
| <b>4.3.8</b> | <b>Appendix – Example of petition signature sheet</b>  | <b>14</b> |



#### **4.3.0 INTRODUCTION**

- 4.3.0.1 Chelmsford City Council welcomes petitions as a way for people to let us know about their concerns and to enable them to participate in the democratic process. This scheme sets out how the Council will deal with petitions that meet the criteria set out in the scheme.
- 4.3.0.2 The type of petition determines how it will be responded to. There are three types:
- a) Ordinary petitions – with 50 or more valid entries.
  - b) Petitions requiring a debate at, or asking for an officer to give evidence to, the Overview and Scrutiny Committee - these require 500 or more valid entries.
  - c) Petitions requiring a debate at full Council – these require 2000 valid entries.
- 4.3.0.3 More detail about how the Council will respond to each of these is found in section 4 of this scheme. We will be as flexible as we can when handling your petition so that it is considered quickly and in the most appropriate way.
- 4.3.0.4 If something is clearly intended to be a petition but does not meet the requirements set out in this scheme, we will ask the relevant service area to provide a response directly to the petition organiser. More detail about how we will deal with petitions that fall outside of the scheme is in section 5.
- 4.3.0.5 Paper petitions can be sent to:
- Legal and Democratic Services Manager  
Chelmsford City Council  
Civic Centre  
Duke Street  
Chelmsford  
CM1 1JE
- 4.3.0.6 The Council does not provide an online or electronic petitions system but if you have created a petition by this means its existence and submission should also be notified to the Legal and Democratic Services Manager.
- 4.3.0.7 The Council will consider all petitions that fall within the scope of this scheme. A petition template is attached at appendix 1. This sets out the information we need to consider your petition under the terms of the Council scheme.

- 4.3.0.8 If you need any advice, please contact the Democracy Team Manager on 01245 606923 or email [committees@chelmsford.gov.uk](mailto:committees@chelmsford.gov.uk)

#### **4.3.1 SECTION 1 – HOW TO START A PETITION**

##### **Who can submit a petition?**

- 4.3.1.1 Anyone who lives, works or studies in Chelmsford can organise or sign a petition, including those under the age of 18.

##### **Can I sign a petition?**

- 4.3.1.2 Any individual signing a petition may be any age and should provide an address which shows that they live, work or study in Chelmsford.

##### **How do I sign a petition?**

- 4.3.1.3 For paper petitions, the petition organiser will gather signatures until a specific date that they have decided. These will then be submitted to the Council.

##### **How do I start an e-petition?**

- 4.3.1.4 The Council welcomes e-petitions. E-petitions follow the same guidelines as paper petitions and the petition organiser and those who sign it must live, work or study in Chelmsford.
- 4.3.1.5 Whilst the Council does not operate its own e-petition system, it is happy to receive e-petitions created using someone else's online or electronic petition system. Once your e-petition is closed and has been passed to the Council we will write to you to acknowledge its receipt. We may also ask you to explain some of the petition's information if the purpose of the petition is not clear to us. We will review the wording of the petition to ensure it is appropriate before we publish the content on our website.
- 4.3.1.6 Please see section 3 for further guidance on the type of petitions that cannot be accepted. If the petition is rejected under this scheme, we will inform the petition organiser within 10 working days, but sometimes we may need more time to assess the content of the petition to ensure it is appropriate. We will inform you if more time is needed.
- 4.3.1.7 You can run an online petition at the same time as a paper petition, combining the two before sending them to the Council. You should send the paper petition to the Council at the same time as the closing date of the online petition so that all of the signatures will be counted at the same time.

### **What can a petition be about?**

- 4.3.1.8 Petitions should be relevant to a matter over which the Council has direct responsibility or statutory duties. Details of those can be seen in the Council's constitution at <http://www.chelmsford.gov.uk/constitution> or you can contact the Democracy Team (01245 606923 or [committees@chelmsford.gov.uk](mailto:committees@chelmsford.gov.uk)) if you need further advice.
- 4.3.1.9 If the petition does not fall within the remit of the Council's powers, we will return your petition to you and, where possible, try to identify the correct organisation for you to send the petition to.

## **4.3.2 SECTION 2 – REQUIREMENTS OF THE PETITION SCHEME**

### **What should a petition contain?**

- 4.3.2.1 To be considered, a petition should contain:
- 4.3.2.2 a title and short statement about the subject matter of the petition. The petition statement should be clear about what action you want the Council to take. If this is not clear, we may have to return the petition to you for further clarification;
- 4.3.2.3 the name and postal address or email address of the petition organiser. This is the person we will contact to explain how we will respond to the petition. The petition organiser should be someone who lives, works or studies in Chelmsford. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser. If no such person can be identified the petition may not be accepted; and
- 4.3.2.4 the name, signature and Chelmsford address or postcode of each person who signed the petition. We **must** be able to identify that the people signing the petition live, work or study in Chelmsford. If you prefer, people signing the petition can put their work or study address, as long as this is based within the geographical boundaries of the Council. Entries that do not meet these requirements will be rejected and not counted towards the total number. You can use the template that is appended to this document.
- 4.3.2.5 **Paper petitions** must clearly display the above information. Petitions received that meet the criteria of this scheme will be published on the Council's website. The contact details of the petition organiser will not be placed on the website. Where possible, we will also publish the Council's response to petitions on the website.

**4.3.2.6 E-petitions** must clearly display:

- the title/subject of the petition;
- the name and address or postcode of any person supporting the petition (users must indicate that they live, work or study in Chelmsford); and
- the starting and closing date of the petition, and whether there is a paper petition collecting signatures in conjunction with the e-petition.

4.3.2.7 Petitions that do not meet these criteria will not be considered under this scheme. How we will respond to those that fall outside of the scheme is detailed in section 5.

**How do I submit a petition?**

4.3.2.8 Paper petitions can be submitted to the Legal and Democratic Services Manager at the address on page 1 of this scheme. You can also submit a petition at a committee meeting or to your local councillor. They will pass the petition to the Legal and Democratic Services Manager for processing under this scheme.

4.3.2.9 The Council does not provide an online or electronic petitions system but if you have created a petition by this means its existence and submission should also be notified to the Legal and Democratic Services Manager.

4.3.2.10 A petition which is partly in paper form and partly electronic should have both parts submitted at the same time.

**4.3.3 SECTION 3 – EXCEPTIONS TO THE PETITIONS SCHEME**

**Are there any petitions that the Council cannot accept?**

4.3.3.1 The majority of petitions we receive will be accepted but there are some circumstances where we will not be able to deal with your petition under this scheme. Petitions that fall outside of this scheme include:

- a) Any matter that the Council is not directly responsible for. We will return the petition to you and where possible direct you to the correct organisation.
- b) Any matter relating to a planning decision, including a development plan document. These will be dealt with using existing procedures. For further information about making representations about planning decisions, please contact the planning team at:  
[planning.comments@chelmsford.gov.uk](mailto:planning.comments@chelmsford.gov.uk)
- c) Any matter relating to a licensing application. These will be dealt with using existing procedures. For further information about making representations, please contact the licensing team at:  
[licensing.email@chelmsford.gov.uk](mailto:licensing.email@chelmsford.gov.uk)

- d) A statutory petition (for example, a petition for a directly elected mayor)
- e) Any matter where there is already an existing right of appeal or a separate complaints process, e.g. council tax banding or non-domestic rates. These will be dealt with using existing procedures
- f) A petition where we have received another petition on the same issue within the previous six months. In these circumstances, we will write to the petition organiser and include a copy of the response to the first petition received.
- g) Any petition which we consider to be vexatious, abusive or otherwise inappropriate. You should not include potentially libellous, false or defamatory statements or which may cause personal offence, distress or loss.
- h) Any petition that is asking the Council to do anything unlawful.
- i) Any petition relating to the subject of any legal action taken by the Council or an individual.
- j) A petition which contains confidential information, for example about a specific individual.

4.3.3.2 Different procedures apply to all these types of petition; for example, there are some situations where there are existing ways of making representations. Those petitions will be dealt with in accordance with existing procedures in place.

4.3.3.3 Anyone trying to create an e-petition that falls outside the scheme will be informed that their petition is excluded. We will write to the petition organiser within 10 days of becoming aware of the petition to explain why it cannot be considered. Where possible, we will advise the petition organiser of the appropriate channel through which they can pursue their concerns.

4.3.3.4 It may also be inappropriate for the Council to deal with certain petitions during periods when it is subject to restrictions, such as immediately before elections or referendums. In these circumstances, the petition organiser will be informed when the petition will be considered, or when any material relating to it will be published on the Council's website.

4.3.3.5 If we decide that a petition is not acceptable for any of the reasons listed above then we will inform the petition organiser of the reasons when we write to them. If you are not satisfied with the reason for your petition being rejected, you can make a complaint under the Council's corporate complaints procedure or ask that the Overview and Scrutiny Committee look at that decision.

**How will the Council deal with petitions about issues that it is consulting Chelmsford residents on?**

- 4.3.3.6 If the Council receives a petition about an issue that it is already consulting with residents about (for example, about changes to services or the formal consultation on a new or revised policy), the petitions scheme will be suspended for that petition and:
- a) All petitions received that relate to the subject of a formal consultation will automatically be incorporated into the formal consultation process at the earliest stage possible.
  - b) Petition organisers will be informed of this and the petition will be submitted to the service area managing the consultation for them to respond in accordance with the Council's policy.
- 4.3.3.7 This approach will also be taken for petitions that are received relating to any issue about the Council's budget during the Council's annual budget setting process will be
- a) incorporated into the formal consultation process: and
  - b) made available for inspection at the budget meeting of the Council so that they can properly inform the Council's budget decisions.
- 4.3.3.8 Sometimes we receive petitions after the consultation deadline has passed but before the final decision has been made. In these circumstances, the decision maker will be asked to take your petition into consideration when they make the decision.
- 4.3.3.9 Petitions received after a decision has been made on a matter that the Council has consulted residents on will not be considered under the scheme but will be passed to the relevant senior officer to respond.

**4.3.4 SECTION 4 – HOW THE COUNCIL WILL RESPOND TO THE PETITION**

**What happens after the petition is submitted?**

- 4.3.4.1 We will send an acknowledgement within 10 working days to the petition organiser. This acknowledgement will also say as much as we can at that stage about what we have done, or plan to do, with the petition. In some circumstances, more time will be needed to clarify some details about what action the Council can take but we will inform you of this in our acknowledgement letter. The petition will then be referred to the appropriate service area for consideration.

**How will the Council respond to my petition?**

- 4.3.4.2 The response to a petition will depend on what a petition asks for and what type of petition it is but may include one or more of the following actions:
- a) taking the action requested in the petition

- b) considering the petition at a Council meeting
- c) holding an inquiry into the matter
- d) undertaking research into the matter
- e) holding a public meeting
- f) holding a meeting with petitioners
- g) writing to the petition organiser setting out our views about the request in the petition

4.3.4.3 Below are the ways in which the Council will respond to different types of petitions.

**Ordinary petitions (50 or more signatures)**

**When is a Petition Valid?**

4.3.4.4

Petitions will only be valid where:

- a) All the signatures are from people that live, work or study in Chelmsford.
- b) Petitions with fewer than 50 valid signatures fall outside of the scheme altogether so will not be considered by councillors, but will still be passed onto the relevant service area for response.
- c) The Legal and Democratic Services Manager, following consultation with the relevant Director and Cabinet Member, concludes that even though there are fewer than 50 valid signatures, there is still clear local support for a specific course of action.

**Procedure:**

4.3.4.5 The following procedure will be followed:

- a) The Legal and Democratic Services Manager will write to the organiser of an Ordinary petition within 10 working days of its receipt to acknowledge its receipt.
- b) The petition will be sent to the appropriate senior officer in the service area concerned.
- c) That officer will consult the relevant Cabinet Member and prepare a response for the Legal and Democratic Services Manager to send to the petition organiser within three weeks of the date of the acknowledgement letter.

- d) The response will clearly set out what action (if any) the service concerned has taken or will take on the request in the petition.
- e) If more time is required, the service concerned will inform the Legal and Democratic Services Manager who will write to the petition organiser to advise them that more time is needed and the date by which a response will be provided to you.

### **Petitions requiring debate at the full Council**

#### **When is a Petition Valid?**

4.3.4.6 Such petitions will only be valid where:

- a) the petition specifically requests that the issue is dealt with at Full Council, and
- b) all the signatures are from people that live, work or study in Chelmsford.

Petitions with fewer than 2000 valid signatures cannot be considered at Full Council but may be dealt with if valid under paragraphs 4.3 above.

#### **Procedure:**

4.3.4.7 On receipt of the petition:

- a) the Monitoring Officer in consultation with the Chief Executive will decide if the subject matter is something on which only the Cabinet can make a decision (an Executive function) or it is appropriate that it is discussed at Full Council (a Council function); and
- b) the Chief Executive in consultation with the Mayor will decide whether the Council has sufficient information to hold an informed debate at the next available Full Council meeting.

4.3.4.8 If the Chief Executive and the Mayor agree that the Council has all the necessary information before it to make an informed decision, the petition organiser will be notified and advised that they will be given up to 10 minutes to present the petition at the Full Council meeting and then either:

- a) where the subject matter relates to a Council function, councillors will debate it for up to 20 minutes and take a decision;
- b) if the subject matter relates to a function that Full Council has delegated to a Committee, it will stand referred to that Committee without discussion; or
- c) if the subject matter relates to an Executive function, it will stand referred to the Cabinet without discussion.



4.3.4.9 If the Chief Executive and the Mayor decide that the Council does not have all the necessary information it requires to make an informed decision, the petition organiser will be notified and advised that they will be given up to 10 minutes to present the petition at the Full Council meeting, but the debate by councillors will then be limited to deciding where the petition should be considered at a future meeting of either:

- a) Full Council, where the subject matter relates to a Council function;
- b) Another Committee if the petition relates to a function that Full Council has delegated to it; or
- c) The Cabinet, if the subject matter relates to an Executive function;

4.3.4.10 The petition organiser will be notified in writing as to what was agreed.

#### **4.3.5 SECTION 5 – HOW THE COUNCIL WILL RESPOND TO PETITIONS OUTSIDE OF THIS SCHEME**

4.3.5.1 The Council sometimes receives correspondence that is intended to be a petition but does not necessarily meet the criteria set out in this scheme. We intend to be as flexible as possible when we are dealing with this correspondence but it will not be possible for it to be dealt with under the formal requirement of this scheme.

##### **What are the main reasons for petitions to be rejected?**

4.3.5.2 The specific criteria for petitions are set out in section 2.1 of the scheme and general exceptions are set out in section 3. If a petition does not meet these criteria, it will not be considered under the scheme.

4.3.5.3 Outside the general exceptions, there are several reasons why a petition may not fall within the scheme but the most common examples are:

- a) the petition statement is not clear;
- b) the subject matter of the petition is not within the remit of the Council;
- c) the entries contain incomplete or invalid information such as no full address or postcode;
- d) we are not able to identify that people signing the petition live, work or study in Chelmsford;
- e) there are not enough valid entries to meet the threshold for an ordinary petition.

### **What will happen to petitions that fall outside of the scheme?**

- 4.3.5.4 The Legal and Democratic Services Manager will have discretion to decide whether a petition meets the criteria set out in the scheme or not.
- 4.3.5.5 If a submitted petition does not fall within the criteria, we will explain the reason why in our acknowledgement letter and set out what action we will take in response to your submission.
- 4.3.5.6 Petitions that fall outside of the criteria of the scheme will be treated as correspondence and sent to the relevant service area for a response. The Director of the service will have discretion to decide how to reply to this correspondence and take the most appropriate action.

### **4.3.6 SECTION 6 - WHAT TO DO IF YOU ARE NOT HAPPY WITH THE WAY YOUR PETITION WAS DEALT WITH**

- 4.3.6.1 If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Council's Overview and Scrutiny Committee reviews the steps that the Council has taken in response to your petition.

#### **Procedure:**

- 4.3.6.2 The following procedure will be adopted:
  - a) Within 21 days of being notified of the decision on the petition, you should inform the Legal and Democratic Services Manager in writing of your wish for the matter to be referred to the Committee.
  - b) Within five working days of receipt of the request for a referral, the Legal and Democratic Services Manager will determine which is the most appropriate Overview and Scrutiny Committee to consider it and will notify you of the time, date and place of the meeting.
  - c) You will be allowed to attend the meeting and to address the Committee for up to five minutes on why you consider that the decision on the petition is inadequate or that it has not been considered properly.
  - d) Should the Committee determine that we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Cabinet or arranging for the matter to be considered at a meeting of the Full Council. Once the referral has been considered the petition organiser will be informed of the results within five working days. The results of the review will also be published on our website.

- 4.3.6.3 If you remain unhappy with the way that your petition has been processed, you can submit a complaint to the Council via the corporate complaints scheme. You can find more guidance at:  
<http://www.chelmsford.gov.uk/complaintsprocedure>

#### **4.3.7 SECTION 7 – WHAT ELSE YOU CAN DO TO HAVE YOUR SAY**

- 4.3.7.1 Chelmsford City Council welcomes feedback as this helps us to review and develop the services that we provide. There are a number of other ways that you can have your say, including by:
- a) writing to the appropriate Director or Cabinet Member
  - b) contacting your local Councillor
  - c) making a suggestion through the Council's website
  - d) responding to consultations
- 4.3.7.2 Visit the Council's website for more information at:  
<http://www.chelmsford.gov.uk/haveyoursay>

# PETITION TO CHELMSFORD CITY COUNCIL – SIGNATURE SHEET

We the undersigned petition the Council to:

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Each person signing the petition should provide their name, signature and a home, work or study address that is in the boundaries of Chelmsford City Council. Any signatures that do not include this information will not be counted.

| Name<br>(please print) | Address or postcode<br>(this should be in the Chelmsford City area) | Signature | Live/work/study address or<br>postcode<br>(please indicate which) |
|------------------------|---|-----------|---|
|                        |   |           |   |
|                        |   |           |   |
|                        |   |           |   |



# PART 4.4

## EXECUTIVE RULES

Note: Please refer to the [Practice Note](#) containing the current list of the persons referred to below as “Designated Officer”

## Contents

|              |   |        |
|--------------|---|--------|
| <b>4.4.0</b> | <b>Introduction</b>   | Page 3 |
| <b>4.4.1</b> | <b>Composition</b>  | Page 3 |
| <b>4.4.2</b> | <b>Leader and Deputy Leader of the Council</b><br>Election of Leader<br>Appointment of Deputy Leader  | Page 3 |
| <b>4.4.3</b> | <b>Nomination of Deputies to Cabinet Members</b>  | Page 3 |
| <b>4.4.4</b> | <b>Delegation of Functions</b>  | Page 4 |
| <b>4.4.5</b> | <b>Meetings of the Cabinet and Committees of Cabinet</b><br>Conduct of meetings<br>Private Meetings<br>Quorum<br>Non-Cabinet Members<br>Committees of the Cabinet | Page 4 |
| <b>4.4.6</b> | <b>Record of Meetings</b>   | Page 6 |
| <b>4.4.7</b> | <b>Decision-making</b><br>Cabinet decisions contrary to policy or budget<br>Urgent decisions contrary to policy or budget<br>Urgent Decisions<br>Key Decisions    | Page 6 |
| <b>4.4.8</b> | <b>Conflicts of interests</b>   | Page 7 |

#### **4.4.0                    INTRODUCTION**

In these Rules the Executive refers, depending on the context, to the Leader, the Cabinet, a committee of the Cabinet or to individual Cabinet Members. The arrangements for discharging Executive functions are set out in Part 3.3.

#### **4.4.1                    COMPOSITION**

- a) The Cabinet shall comprise the Leader of the Council and between two and nine other councillors.
- b) Neither the Mayor nor Deputy Mayor may be a member of the Cabinet.
- c) Members of the Cabinet shall be appointed by the Leader. The Legal and Democratic Services Manager will ensure that an up-to-date version of the Scheme of Executive Delegation is available for Members, Officers and the public.

#### **4.4.2                    LEADER AND DEPUTY LEADER OF THE COUNCIL**

##### **Election of Leader**

- 4.4.2.1 The Leader shall be elected in accordance with Council Rules 4.1.2 to 4.1.5 in Part 4.1 of the Constitution.

##### **Appointment of Deputy Leader**

- 4.4.2.2 The Deputy Leader will be a member of the Cabinet and shall be appointed and may be dismissed, by the Leader. In the absence of the Leader, the Deputy Leader shall assume all of the responsibilities of that post.

#### **4.4.3                    NOMINATION OF DEPUTIES TO CABINET MEMBERS**

- 4.4.3.1 The Leader may appoint Cabinet Deputies with the roles and responsibilities set out in Article 2.7.4.
- 4.4.3.2 In the absence of a Cabinet member responsibility for a post will pass to the Leader.
- 4.4.3.3 Where the Leader is unable to perform the duties, responsibility for them shall pass to the Deputy Leader.



#### **4.4.4 DELEGATION OF FUNCTIONS**

- 4.4.4.1 The Leader may, in accordance with Part 4.1.1.13, and through the Scheme of Executive Delegation in Part 3.3.2, arrange for any Executive function to be carried out by: -
- a) the Cabinet,
  - b) a committee of the Cabinet,
  - c) an officer,
  - d) joint arrangements with another local authority, or
  - e) another local authority.
- 4.4.4.2 Where Executive functions have been delegated, the person or body making the delegation may still carry out the functions delegated.
- 4.4.4.3 Any Executive functions delegated under these Rules shall be included in Part 3.3 of the Constitution (Responsibility for Functions).
- 4.4.4.4 In establishing a committee the Leader must specify either that it is: -
- a) an advisory body to the Leader or Cabinet with no executive decision-making powers; or
  - b) a body that has full delegated powers to take decisions on matters for which it is responsible.

#### **4.4.5 MEETINGS OF THE CABINET AND COMMITTEES OF CABINET**

##### **Conduct of meetings**

- 4.4.5.1 Meetings of the Cabinet will normally be held at the Civic Centre, Chelmsford but, with the agreement of the Leader, may be held at other locations in the City.
- Meetings of the Cabinet will be conducted in accordance with: -
- 4.4.5.2
- a) the Procedure Rules for Cabinet and all Committees in Part 4.2;
  - b) the Executive Procedure Rules in this Part; and
  - c) the Access to Information Procedure Rules in Part 4.6.
- 4.4.5.3 Where the Cabinet is considering matters which contain confidential information it must pass a resolution to exclude press and public during consideration of those reports and on matters which contain exempt information in accordance with the legislation and with the Access to Information Procedure Rules Part 4.6.

##### **Private Meetings**

- 4.4.5.4 The procedures to be followed prior to holding a private meeting are set out in the Access to Information Procedure Rules (Part 4.6.21).

##### **Quorum**

- 4.4.5.5 The quorum for a meeting of the Cabinet shall be three voting members of the Cabinet.  
The quorum for a meeting of a committee of the Cabinet will be decided by the Cabinet when establishing the body.

**Non-Cabinet members**

- 4.4.5.6 Each political group, and councillors who do not constitute or belong to political groups, not represented on the Cabinet shall be entitled to contribute to discussion on items on the agendas for its meetings and ask questions of Cabinet Members on their areas of responsibility under the relevant agenda item. This arrangement is subject to the following: -

- a) the largest minority political group shall, at the Annual Meeting of the Full Council, nominate spokespersons to speak or ask questions on specific Cabinet functions. The spokespersons may nominate deputies to speak in their absence. In addition, the largest opposition group may nominate spokespersons for the areas of responsibility of Cabinet Deputies;
- b) at the discretion of the chair of the meeting, the spokespersons or their nominated deputies may contribute to discussion on items on which they are spokespersons and ask questions under the item entitled Members' Questions; however, they shall not have the right to vote;
- c) with the exception of the ability to nominate deputies, the arrangements described in (b) above shall apply to any political groups other than the largest minority group and to councillors who do not constitute or belong to political groups, but they shall each be limited to contributing no more than twice at a meeting by way of asking questions or speaking on an item;
- d) If an opposition spokesperson on a Cabinet function is unable to attend a meeting of the Cabinet, the Chair of the meeting shall have discretion to allow another member of that group to ask a question or comment on an item on the agenda for the meeting relating to that function; and
- e) the councillors observing all relevant rules on the disclosure of interests.

- 4.4.5.7 At the discretion of the Chair of the meeting, councillors shall be entitled to contribute to discussions on items at Cabinet meetings that relate specifically to their wards. All relevant rules on the disclosure of interests shall apply to those councillors.

**Committees of the Cabinet**

- 4.4.5.8 Attendance at meetings of the Cabinet must be dealt with in accordance with the Access to Information Procedure Rules in Part 4.6.

- 4.4.5.9 Informal briefing meetings need not be in public if the purpose of the meeting is not to take a decision but to receive a briefing from officers.

**4.4.6 RECORD OF MEETINGS AND OFFICER KEY DECISIONS**

- 4.4.6.1 A summary of the decisions of each meeting of the Cabinet shall be published within two working days of the meeting.
- 4.4.6.2 Any papers relied on by the Cabinet when making decisions, except those containing exempt or confidential information, shall be listed with the decisions. The papers shall be available for inspection by councillors and the public. Unless otherwise stated, the reports to the meeting shall be deemed to be the papers relied on. Any additional papers not circulated with the agenda shall be mentioned in the minutes.
- 4.4.6.3 Key Decisions taken by an individual Officer must be taken in accordance with the Access to Information Procedure Rule 4.6.17.2

**4.4.7 DECISION-MAKING**

- 4.4.7.1 The Access to Information Procedure Rules 4.6.10 – 4.6.21 will apply to the Cabinet and its committees and to any decisions taken by the Leader or Cabinet members under the Scheme of Executive Delegation

**Cabinet decisions contrary to policy or budget**

- 4.4.7.2 Where it appears to the Overview and Scrutiny Committee that the Cabinet has made, or is about to make, a decision which is contrary to a policy or budget agreed by the Council (a “contrary decision”), they shall seek the advice of the Chief Financial Officer and/or the Monitoring Officer, as appropriate.
- 4.4.7.3 Where the advice of either of those officers is that a contrary decision has been or will be made, the appropriate officer will report on the matter to the Cabinet. The Cabinet must then decide either:
- a) to confirm the former or intended decision;
  - b) to revise the decision, if it is one that has already been made, to bring it into line with the relevant policy or budget; or
  - c) to not proceed with the intended decision and/or to bring it into line with the relevant policy or budget.
- 4.4.7.4 In the case of (a) above, the Cabinet will report to the Full Council with the reasons for taking or intending to take the decision.

- Urgent decisions contrary to policy or budget**
- 4.4.7.5 Where an urgent decision needs to be taken by the Cabinet which is not in accordance with existing policy or an approved budget, and it is not possible to convene a quorate meeting of the Full Council before the decision needs to be taken, the approval of the Overview and Scrutiny Committee chair and/or vice chair (or the Mayor, as chair of the Full Council, in their absence) shall be sought to the matter being treated as urgent. If that agreement is obtained, the Cabinet may take the decision but must report to the next meeting of the Full Council on the decision taken and the reasons for its urgency. If the chair or Mayor do not consent to the decision being taken, the Leader or the Cabinet, as appropriate, must await the next scheduled or a special meeting of the Full Council.
- Urgent Decisions**
- 4.4.7.6 In making a decision the Executive may, for reasons to be recorded in the minutes of the meeting or the record of the decision, and with the concurrence of the Monitoring Officer, recorded in writing, deem a decision to be urgent and unable to await the call-in procedure (described in Part 4.5 of the Constitution). In such circumstances, the call-in procedure shall not apply, although the decision may be reviewed at the next meeting of the Overview and Scrutiny Committee if a request to do so is submitted to the designated officer.
- 4.4.7.7 An urgent decision of the Executive is one which, were there to be a delay, would result in some form of significant loss, hardship or detriment to the Council or a person or body outside the Council. The written opinion of the Monitoring Officer shall be obtained as to whether a matter could be regarded as urgent.
- Key Decisions**
- 4.4.7.8 A key decision is defined in Article 2.14.4 of this Constitution. If the Cabinet or its committees intend to take a key decision they must also comply with Access to Information Procedure Rules 4.6.1-9, unless Rule 4.6.12 (general exception) or Rule 4.6.13 (special urgency) apply.
- CONFLICTS OF INTERESTS**
- 4.4.8
- 4.4.8.1 Where the Leader or Cabinet Member has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Councillors in Part 5.1.1 of this Constitution.
- 4.4.8.2 If every Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Councillors in Part 5.1.1 of this Constitution.

4.4.8.3

If the exercise of an Executive function has been delegated to a committee of the Cabinet, or an officer, and a conflict of interest arises then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Councillors or the Code of Conduct for Officers in Part 5.6 of this Constitution.

## PART 4.5

### OVERVIEW AND SCRUTINY

### PROCEDURE RULES

Note: Please refer to the [Practice Note](#) containing the current list of the persons referred to below as “Designated Officer”

## **CONTENTS**

|  |                |
|--|----------------|
| <b>4.5.0 Introduction</b>  | <b>Page 3</b>  |
| <b>4.5.1 Meetings of the Committee</b>   | <b>Page 3</b>  |
| <ul style="list-style-type: none"><li>- Rules relating to its meetings</li><li>- Programme of meetings</li><li>- Conduct of meetings</li></ul>   |                |
| <b>4.5.2 Membership</b>  | <b>Page 3</b>  |
| <b>4.5.3 Chair and Vice Chair</b>  | <b>Page 4</b>  |
| <b>4.5.4 Attendance of Officers and Members</b>  | <b>Page 4</b>  |
| <b>4.5.5 Attendance of Contributors</b>  | <b>Page 4</b>  |
| <b>4.5.6 Work Programme</b>  | <b>Page 5</b>  |
| <b>4.5.7 Relationship with the Executive</b>   | <b>Page 5</b>  |
| <ul style="list-style-type: none"><li>- References to the Executive</li><li>- Reports and recommendations to the Executive</li><li>- Executive decisions contrary to policy/budget</li><li>- Urgent decisions contrary to policy or budget</li><li>- Private Meetings</li></ul>  |                |
| <b>4.5.8 Direct Reports to Full Council</b>  | <b>Page 6</b>  |
| <b>4.5.9 Rights of Councillors to put items on the agenda of the Overview and Scrutiny Committee</b>   | <b>Page 7</b>  |
| <b>4.5.10 Task and Finish Groups</b>   | <b>Page 7</b>  |
| <b>4.5.11 Call-in Arrangements</b>   | <b>Page 8</b>  |
| <ul style="list-style-type: none"><li>- Procedure for scrutinising executive decisions</li><li>- Period within which decisions must be scrutinised</li><li>- Advance notification of arrangements</li><li>- Advance notification of information</li><li>- Call-in procedure at committee meeting</li><li>- Options for decisions</li></ul> |                |
| <b>4.5.12 Petitions</b>  | <b>Page 11</b> |
| <b>4.5.13 Rights of O&amp;S to documents</b>   | <b>Page 11</b> |

Part 4.5

**4.5.0 INTRODUCTION**

- 4.5.0.1 These Rules apply to the Council's exercise of overview and scrutiny functions, and meetings of the Overview and Scrutiny Committee. They do not apply to the Overview and Scrutiny Committee's Task and Finish Groups. The rules for Task and Finish Groups are contained in the [Task and Finish Groups' Protocol](#).
- 4.5.0.2 The role of the Committee is as described in Article 2.8 and the Terms of Reference for discharging Overview and Scrutiny functions are set out in Part 3.2.3.
- 4.5.0.3 These Rules should be read specifically in conjunction with the following Procedure Rules : -
- i. Part 4.2 (Common to Cabinet and committees);
  - ii. Part 4.3 (Petitions);
  - iii. Part 4.4 (Executive Procedure Rules); and
  - iv. Part 4.6 (Access to Information Procedure Rules).
- 4.5.0.4 The "Committee" in these Rules means the Overview and Scrutiny Committee.

**4.5.1 MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEE**

**Rules Relating to its Meetings**

- 4.5.1.1 The relevant Rules Common to Cabinet and all Committees in Part 4.2 of the Constitution shall apply to the Overview and Scrutiny Committee, but not to the Task and Finish Groups.

**Programme of Meetings**

- 4.5.1.2 The Committee shall meet a minimum of four times a year in accordance with the agreed programme of meetings.

**Conduct of meetings**

- 4.5.1.3 All members of the Committee shall have the opportunity to speak and to question those required or requested to attend its meetings.
- 4.5.1.4 The Committee shall endeavour to reach consensus on the business before it and, as far as possible, shall conduct its proceedings openly and apolitically.

**4.5.2 MEMBERSHIP**

- 4.5.2.1 No member of the Cabinet may be a member of the Committee. The Committee's membership shall meet the requirements for political balance.



Part 4.5

4.5.2.2 The political groups on the Council shall endeavour, when nominating councillors to serve on the Committee, to give as many councillors as possible over a period of years the opportunity to widen their experience and learning by being appointed to the Committee.

4.5.2.3 With the exception of decisions taken by the Full Council as a whole, no councillor may be involved in scrutinising a decision which he has been directly involved in making.

4.5.2.4 The Committee may co-opt persons from outside the Council to assist it with a particular review. Those persons shall be appointed only for the duration of the review and will not have the right to vote.

**4.5.3 CHAIR AND VICE CHAIR**

4.5.3.1 The Committee's chair will normally be a member of the Opposition of the Council. The vice chair will normally be a member of the majority group.

**4.5.4 ATTENDANCE OF OFFICERS AND MEMBERS**

4.5.4.1 In carrying out its functions, the Committee may require the attendance of any councillor or senior officer to explain or discuss matters for which they are responsible or with which they are directly involved.

4.5.4.2 Cabinet Members may attend meetings as observers but may only contribute to discussions at the invitation of the chair.

4.5.4.3 Any person required to attend a meeting shall be notified by the Designated Officer at least ten working days before the meeting. The notice will state the nature of the matter on which they are required to attend and whether they need to produce any specific information. Where written material is required, reasonable time will be allowed for its preparation.

4.5.4.4 a) Where a person is unable to attend on the required date, either:  
b) an alternative date will be arranged with that person; or  
the officer or councillor will arrange for a substitute to attend in their place, if the chair of the Committee thinks it appropriate.

**4.5.5 ATTENDANCE OF CONTRIBUTORS**

4.5.5.1 Legal and Democratic Services will be responsible for inviting persons from outside the Council ("contributors") to attend meetings of the Committee, where either it or the chair (or in his absence the vice chair) has decided that their advice and experience would be of benefit to the Committee.

Part 4.5

Such persons may include experts in a particular field, representatives of local organisations and bodies, residents and stakeholders.

**4.5.6 WORK PROGRAMME**

- 4.5.6.1 The Committee will produce and publish a programme of work, which it will keep under review.
- 4.5.6.2 Suggestions for the inclusion of items in the work programme will be sought from councillors at the beginning of each municipal year. Officers, external bodies and Citizens may also put forward items for consideration for inclusion.
- 4.5.6.3 Suggestions for further items may be made to the Designated Officer at any time during the year. They shall be examined by the chair and vice chair in the first instance, who will decide whether they should be put to the Committee for inclusion in the work programme.

**4.5.7 RELATIONSHIP WITH THE EXECUTIVE**

**Note:** In the following Rules the applicability of the references to the Executive, Leader, the Cabinet or Cabinet Member(s) will depend on the extent of the delegation of executive powers under the Leader's Scheme of Executive Delegation Part 3.2.3 and the Officer Scheme of Delegation in Part 3.2.4.

**References to the Executive**

- 4.5.7.1 Depending on the extent of the Leader's Scheme of Executive Delegation, the Committee may bring to the attention of the Leader and/or the Cabinet matters (whether they be policy, procedural or organisational) which it considers need to be scrutinised or reviewed by the Committee.
- 4.5.7.2 If the Leader or Cabinet, as appropriate, fails within six months to take a decision on whether or not to carry out that work, the Committee may carry out the work and report its findings to the Cabinet.

**Reports and recommendations to the Executive**

- 4.5.7.3 Reports and recommendations from the Committee shall be considered by the Cabinet, as appropriate, within two months of the report or recommendation being adopted by the Committee. If the Cabinet fails to consider a report or recommendation within that period, it shall stand referred to the next practicable meeting of the Full Council. Interim reports may be prepared for the Cabinet if the Committee considers it to be appropriate.
- 4.5.7.4 Reports from the Committee will be presented to the Cabinet by or in the

Part 4.5

name of the Committee's chair or vice chair or, if the report originated from a Task and Finish Group, the chair of that Group if the Committee so decides.

**Cabinet decisions contrary to policy or budget**

- 4.5.7.5 Executive Procedure Rule 4.4.7.3 applies where it appears to the Committee that the Cabinet has made, or is about to make, a decision which is contrary to a policy or budget agreed by the Council (a "contrary decision").

**Urgent decisions contrary to policy or budget**

- 4.5.7.6 Executive Procedure Rule 4.4.7.5 applies where an urgent decision needs to be taken by the Cabinet which is not in accordance with existing policy or an approved budget, and it is not possible to convene a quorate meeting of the Full Council before the decision needs to be taken.

**Scrutiny of Executive Decisions**

- 4.5.7.7 Rule 4.5.11.10 below sets out the arrangements for scrutinising Executive decisions (referred to as "Call-in").

**Private Meetings of the Executive**

- 4.5.7.8 Where the date by which a private meeting of the Executive must be held makes compliance with the statutory requirements impracticable, the meeting may only be held in private where the decision-making body has obtained agreement that the meeting is urgent and cannot reasonably be deferred from either: -

- a) the chair of the Overview and Scrutiny Committee; or
- b) the Mayor, if there is no chair of the Overview and Scrutiny Committee or if they are unable to act; or
- c) the Deputy Mayor (as vice-chair of the Council), where there is no chair of the Overview and Scrutiny Committee or the Mayor is unable to act.

**4.5.8 DIRECT REPORTS TO FULL COUNCIL**

- 4.5.8.1 The Committee shall report to the Cabinet in the first instance on any matter which requires the attention of or a decision by the Full Council. Should the Cabinet fail to refer the matter to the Full Council within two months of the Committee's decision to refer the matter to it, the Committee shall be entitled to submit its own report directly to the Full Council.

- 4.5.8.2 Where the Committee makes a report or recommendations to Full Council or the Leader or Cabinet, (apart from scrutiny of crime and disorder matters): -

- a) The Committee may publish the report or recommendations;

Part 4.5

- b) The Committee must by notice given by the chair or, in his absence, the vice Chair, in writing to the Designated Officer require Full Council or the Executive to:
- i. consider the report or recommendations;
  - ii. respond to the Overview and Scrutiny Committee indicating what (if any) action the authority, or the Executive, proposes to take;
  - iii. if the Overview and Scrutiny Committee has published the report or recommendations under Rule 4.5.8.2, to publish the response; and
  - iv. if the Overview and Scrutiny Committee provided a copy of the report or recommendations to a member of the authority under Rule 4.5.8.2 to provide the member with a copy of the response.

4.5.8.3 The notice served must require the Full Council or Leader or Cabinet to comply with it within two months beginning with the date on which the Full Council or Leader or Cabinet received the report or recommendations or (if later) the notice.

4.5.8.4 Full Council or the Leader or Cabinet must comply with any notice served in accordance with Rule 4.5.8.2 above.

**4.5.9 RIGHTS OF COUNCILLORS TO PUT ITEMS ON THE AGENDA OF THE OVERVIEW AND SCRUTINY COMMITTEE**

4.5.9.1 Any councillor, including members of the Overview and Scrutiny Committee, may give written notice to the Designated Officer that they wish an item within the Committee's Terms of Reference to be included on the agenda. If the Designated Officer receives such a notification, then they will include the item on the first available agenda of the Overview and Scrutiny Committee for consideration by the Committee.

**4.5.10 TASK AND FINISH GROUPS**

4.5.10.1 The Committee may establish Task and Finish Groups to look into any matter within the Committee's Terms of Reference in detail. The Committee will specify the purpose of each Task and Finish Group and define its terms of reference in Part 3.2.3(e).<sup>1</sup>

4.5.10.2 Once it has completed the purpose for which it was established each Task and Finish Group shall cease to exist.

4.5.10.3 Task and Finish Groups will normally comprise up to nine councillors and shall, as far as practicable, be politically balanced.

4.5.10.4 Each Task and Finish Group may co-opt non-voting persons from outside

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<sup>1</sup> See also: [Task & Finish Groups Protocol, available on the Council's website.](#)

Part 4.5

the Council who have a particular knowledge of or interest in the subject matter for which the Task and Finish Group is responsible.

- 4.5.10.5 If not already appointed by the Committee on the setting up of the Task and Finish Group, each Group shall elect a chair or vice chair from among its councillor membership.
- 4.5.10.6 Task and Finish Groups are not sub-committees and have no power to make decisions and their meetings will not be regarded as meetings of the Council for the purposes of Sections 100 and 101 of the Local Government Act 1972. The provisions of that Act and the Rules in Parts 4.1 and 4.2, other than the procedures described in this Rule, will not therefore apply to them.
- 4.5.10.7 The Task and Finish Group shall decide the dates and times of its meetings.
- 4.5.10.8 A Task and Finish Group final report will be presented to the Committee by its chair or, if unable to do so, its vice chair or another councillor agreed by the Task and Finish Group. The Committee may decide which, if any of the recommendations to accept.

**4.5.11. CALL-IN ARRANGEMENTS**

**Procedure for scrutinising executive decisions**

- 4.5.11.1 A summary of any executive decision (i.e. a decision taken by the Cabinet, a Cabinet committee or a Cabinet Member or officer under delegation) shall be notified to all councillors within two days of being taken. An executive decision that constitutes a recommendation to the Council shall not be subject to call in.
- 4.5.11.2 Executive decisions may be called-in by members of the Overview and Scrutiny Committee. The call-in will only be valid if:
- a) it is requested by at least five members of the Overview and Scrutiny Committee;
  - b) the request is in writing or by email and includes the names of all the councillors requesting the call-in;
  - c) the request sets out the reason for the call-in; and
  - d) it is received by the Designated Officer by the expiry of the call-in period, i.e. 5pm on the fourth working day after the decision has been taken.
- 4.5.11.3 No decision may be called-in more than once.
- 4.5.11.4 On being informed of a call-in, the Designated Officer shall notify all members of the Council and relevant officers. No decision that has been called-in, with the exception of an urgent decision, shall be implemented before the Overview and Scrutiny Committee has considered it.

Part 4.5

4.5.11.5 **Period within which decision must be scrutinised**

Where an executive decision has been called-in, the meeting of the Committee to scrutinise it will be held as soon as practicable after the decision to do so was taken. This will normally be within 15 working days after receipt by the Designated Officer of the request to call it in.

4.5.11.6 **Advance notification of arrangements**

In advance of a meeting of the Committee at which an executive decision is due to be scrutinised, the chair of the Committee may:

- a) require from Cabinet Members and/or officers further written information on the decision to be scrutinised;
- b) invite persons from outside the Council ("contributors") who have a particular knowledge of or expertise in the subject matter of the decision to be scrutinised to attend the meeting. Contributors may be reimbursed for travelling and subsistence costs reasonably incurred by them in attending the meeting;
- c) require the attendance at the meeting of the Cabinet member with responsibility for the matter to be scrutinised (or another Cabinet Member agreed by the Leader if they are unable to attend) to explain the decision. In the case of an executive decision taken by the Leader, Cabinet, committee or an officer, the Cabinet member with responsibility for the function shall be required to attend, even though they may not have actually taken the decision; and
- d) require the attendance at the meeting of such officers (or their substitutes if they are unable to attend) as the Chair thinks appropriate to provide information on the decision to be scrutinised.

4.5.11.7 The Designated Officer will make the necessary arrangements on behalf of the Chair no later than five days before the meeting.

4.5.11.8 The Cabinet member(s) will also have the opportunity to call up to two contributors or officers to present information in support of the decision. The names and, if appropriate, the positions of those persons will be notified to the Designated Officer at least two days before the meeting, who will in turn notify the chair.

**Advance notification of information**

4.5.11.9 At least five working days before the meeting of the Committee the Designated Officer will give to the Cabinet Member(s) invited to attend, in writing:

- a) the specified reasons for the call-in;

Part 4.5

- b) the names and, if appropriate, the positions held by any contributors who have been invited by the Chair to attend the meeting in connection with the matter to be scrutinised and the purpose for which they have been invited; and
- c) the subject matter of any additional written information requested by the chair.

**Call-in procedure at the Overview and Scrutiny Committee meeting**

4.5.11.10 Unless the chair decides otherwise, the following order of business (insofar as it is applicable) will generally be observed in the Committee's scrutiny of an executive decision:

- a) an explanation by the chair of the reasons for the call-in;
- b) an explanation by the Cabinet member with responsibility for the matter called-in of the reasons behind the decision;
- c) an invitation to contributors called by the Chair to comment on the decision; questions to the chair's contributors by the Cabinet Member(s);
- d) an invitation to contributors and/or officers called by the Cabinet Member to
- e) present information in support of the decision;
- f) questions to the Cabinet's contributors and/or officers by Committee members;
- g) questions to the Cabinet Member(s) by the Committee;
- h) general discussion by the Committee;
- i) the decision.

**Options for decisions**

4.5.11.11 The Committee may:

- a) conclude that it supports the executive decision and does not wish it to be amended (in which case the decision may be implemented immediately);
- b) decide that the decision or part of it was
  - i. unreasonable, or
  - ii. based on incorrect information or did not take into account information which should have been considered, or
  - iii. faulty in some other way,and refer the decision to the Cabinet for reconsideration; or
- c) come to the view that the decision is contrary to or not wholly consistent with a budget or a policy agreed by the Council. In coming to any such view the Committee will take into account the advice of the Director of Financial Services and/or the Monitoring Officer, as appropriate.

4.5.11.12 If the Committee conclude that the decision is contrary to a budget or a policy agreed by the Council, it must in the first instance refer the decision to the Cabinet. The Cabinet must decide whether to amend the called-in

Part 4.5

decision to satisfy the concerns of the Overview and Scrutiny Committee or, if it does not wish to do so, refer the matter to the Full Council. If the latter course is chosen, the Full Council may either confirm or amend the decision.

**4.5.12 PETITIONS**

**Review of responses to petitions**

4.5.12.1 Where a petition organiser is dissatisfied with the way in which their petition was handled or with the adequacy of the Council's response, they may request that the handling of and response to the petition be reviewed by the Overview and Scrutiny Committee.

4.5.12.2 The Committee shall normally meet within 30 days of the receipt of the request for a review. The petition organiser may:

- a) submit written representations in respect of their request, which must be received by the Designated Officer no later than five working days before the meeting at which it is considered; and
- b) address the Committee for up to five minutes to explain the grounds for requesting the review.

4.5.12.3 Having reviewed the way in which a petition has been dealt with, the Committee may:

- a) decide that no further action should be taken by the Council;
- b) order an investigation and report back to the Committee on any aspect of the handling of the petition; or
- c) refer the matter to the Cabinet or Full Council, with or without recommendations or comments.

4.5.12.4 The petition organiser shall be informed in writing within five working days of the Committee's decision on their review. The decision will also be published on the Council's website.

**4.5.13 RIGHTS OF SCRUTINY MEMBERS TO DOCUMENTS**

4.5.13.1 In addition to their rights as councillors, members of the Overview and Scrutiny Committee also have the right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4.6.



# PART 4.6

## ACCESS TO INFORMATION

### RULES

Note: Please refer to the [Practice Note](#) containing the current list of the persons referred to below as “Designated Officer”

## CONTENTS

|   |               |
|---|---------------|
| <b>4.6.1 Application of the Rules</b>   | <b>Page 3</b> |
| <b>4.6.2 Rights to Attend Meetings</b>  | <b>Page 3</b> |
| <b>4.6.3 Notice of Meetings</b>   | <b>Page 3</b> |
| <b>4.6.4 Access to Agendas and Reports before Meetings</b>                                  | <b>Page 3</b> |
| <b>4.6.5 Supply of Copies</b>   | <b>Page 4</b> |
| <b>4.6.6 Access to Documents after Meetings</b>   | <b>Page 4</b> |
| <b>4.6.7 Background Papers</b>  | <b>Page 4</b> |
| - List of background papers   |               |
| - Public inspection of background papers  |               |
| <b>4.6.8 Exclusion of Access to Meetings and Reports</b>                                    | <b>Page 5</b> |
| - Meaning of exempt information   |               |
| - Discretion to exclude the public from meetings  |               |
| - Exclusion of access to reports  |               |
| <b>4.6.9 Application of Rules to Cabinet Meetings and Decisions</b>                         | <b>Page 5</b> |
| <b>4.6.10 Special Procedure required before Taking Key Decisions by Cabinet or officers</b> | <b>Page 5</b> |
| <b>4.6.11 Executive Decisions Notice</b>  | <b>Page 6</b> |
| <b>4.6.12 General Exception to Rule 4.6.10</b>  | <b>Page 6</b> |
| <b>4.6.13 Special Urgency for Rule 4.6.10</b>   | <b>Page 7</b> |
| <b>4.6.14 Report to Council where Rule 4.6.10-13 do not apply</b>                           | <b>Page 7</b> |
| <b>4.6.15 Cabinet's Report to Full Council</b>  | <b>Page 7</b> |
| <b>4.6.16 Quarterly Reports on Urgency Decisions</b>  | <b>Page 8</b> |
| <b>4.6.17 Record of Executive Decisions</b>   | <b>Page 8</b> |
| - Cabinet   |               |
| - Key Decisions by Officers   |               |
| <b>4.6.18 Cabinet Meeting Relating to Matters that are not Key Decisions</b>                | <b>Page 8</b> |

|        |   |         |
|--------|---|---------|
| 4.6.19 | <b>Access to Documents by Overview and Scrutiny Committee</b> <ul style="list-style-type: none"><li>- Rights to copies</li><li>- Limit on rights</li></ul>  | Page 9  |
| 4.6.20 | <b>Additional Rights of Access for Councillors</b> <ul style="list-style-type: none"><li>- Material relating to previous business</li><li>- Material relating to key decisions</li><li>- Nature of rights</li></ul> | Page 9  |
| 4.6.21 | <b>Procedures Prior to Private Meeting</b>  | Page 10 |
| 4.6.22 | <b>Items of urgent Business</b>   | Page 10 |
|        | <b>Annex A: Exempt Information</b>  | Page 11 |
|        | <b>Annex B: Summary of Rights to Attend Meetings</b>  | Page 13 |
|        | <b>Annex C: The Public's Right to Ask Questions and Make Statements at Meetings</b>   | Page 15 |

#### **4.6.1            APPLICATION OF THESE RULES**

4.6.1.1           These Rules apply to Full Council, the Leader, the Cabinet and all Council committees.

4.6.1.2           Depending on the arrangements made under the Leader's Scheme of Executive Delegation, the references in these Rules to meetings and their agendas, reports and minutes will also apply to the intention of the Leader or Cabinet members individually to take decisions, to any public papers on which those decisions are based, and to the formal record of those decisions.

4.6.1.3           These Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

#### **4.6.2            RIGHTS TO ATTEND MEETINGS**

4.6.2.1           Subject to any exceptions in these Rules, members of the public may attend all meetings of Full Council, the Cabinet and committees of the Council.

4.6.2.2           Informal briefing meetings need not be in public if the purpose of the meeting is not to take a decision but to receive a briefing from officers.

#### **4.6.3            NOTICE OF MEETINGS**

4.6.3.1           The Designated Officer will give at least five clear working days' notice of any meetings by posting details at the Civic Centre, Chelmsford and/or on the Council's website.

#### **4.6.4            ACCESS TO AGENDAS AND REPORTS BEFORE A MEETING**

4.6.4.1           The Council will make copies of the agenda, public reports and Background Papers for a meeting available for inspection at the Civic Centre and/or on its website at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added. However, the item need not be made available to the public until it has been made available to Councillors.

4.6.4.2           A list of categories of 'Exempt Information' not available for public access is set out in Annex A to these Procedure Rules. A written summary of the public's rights to attend meetings and to inspect and copy documents is set out in Annex B to these Procedure Rules

#### **4.6.5**            **SUPPLY OF COPIES**

- 4.6.5.1            On payment of postage and printing costs, the Council will supply to the public copies of: -
- a)    agendas and reports which are open to public inspection;
  - b)    any further information necessary to indicate the nature of the items on the agenda; and
  - c)    if the Designated Officer thinks fit, copies of any other documents supplied to councillors in connection with an item.

#### **4.6.6**            **ACCESS TO DOCUMENTS AFTER A MEETING**

- 4.6.6.1            The following documents will be made available to the public for six years after a meeting: -
- a)    the minutes of meetings of the Council, the Cabinet, and committees and sub-committees, and the written record of Executive decisions taken by officers under delegated authority, excluding any “Exempt” or “Confidential” information (see Rule 4.6.8 below);
  - b)    a reasonably fair and coherent summary of any part of the meeting not open to the public;
  - c)    the agenda for the meeting; and
  - d)    reports relating to items when the meeting was open to the public.

#### **4.6.7**            **BACKGROUND PAPERS**

##### **List of background papers**

- 4.6.7.1            Each author will set out in their report a list of those documents (“background papers”) which, in their opinion,
- i.     disclose any facts or matters on which the report, or an important part of it, is based; and
  - ii.    which have been relied on to a material extent in preparing the report.
- 4.6.7.2            The list of documents need not include: -
- a)    published works;
  - b)    those which disclose “Exempt” or “Confidential” information; or
  - c)    in respect of Executive reports, the advice of a political adviser.

##### **4.7.7.3            Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers. The individual Services of the Council will make

arrangements to ensure that information held by them is made available under this Rule.

#### **4.6.8 EXCLUSION OF ACCESS TO MEETINGS AND REPORTS**

##### **Meaning of exempt information**

- 4.6.8.1 Exempt information means information falling within the categories and with the qualifications detailed in Annex A to these Rules.

##### **Discretion to exclude the public from meetings**

- 4.6.8.2 The public may be excluded from meetings whenever exempt information is likely to be disclosed and the public interest in maintaining the exemption would outweigh the public interest in disclosing it.

- 4.6.8.3 Where the meeting will determine a person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in that Article.

##### **Exclusion of access to reports**

- 4.6.8.4 On the advice of the Designated Officer, the Council may exclude access by the public to reports which relate to items during the consideration of which the meeting is not likely to be open to the public. Such reports will be marked "Not for Publication", will describe the category of exempt information they contain and state why the public interest in maintaining the exemption outweighs the public interest in disclosing it.

#### **4.6.9 APPLICATION OF RULES TO CABINET MEETINGS AND DECISIONS**

- 4.6.9.1 Rules 4.6.10 – 4.6.21 will apply to the Cabinet and its committees and to any decisions taken by the Leader, Cabinet Members or officers under the Scheme of Executive Delegation. If the Cabinet, its committees, the Executive members or officers intend to take a key decision they must also comply with Rules 4.6.1-9, unless Rule 4.6.12 (general exception) or Rule 4.6.13 (special urgency) apply. A key decision is defined in Article 14 (Paragraph 2.14.4) of this Constitution.

#### **4.6.10 SPECIAL PROCEDURE REQUIRED BEFORE TAKING KEY DECISIONS**

- 4.6.10.1 Subject to Rules 4.6.12 or 4.6.13 of these Rules, a key decision may not be taken unless:
- a) a notice has been published in connection with the matter in question;
  - b) at least 28 days have elapsed since the publication of the notice; and

- c) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4.6.3.1 (notice of meetings).

#### **4.6.11            EXECUTIVE DECISIONS NOTICE**

4.6.11.1            The Designated Officer will arrange for the notice referred to in Rule 4.6.10.1 a) (known as an Executive Decisions Notice) to be published at the Civic Centre and on the Council's website at least 28 working days before it is intended to take the decision(s). That Notice may include decisions on matters that do not constitute Key Decisions.<sup>1</sup>

4.6.11.2            The Executive Decision Notice will include:

- a) a statement that a key decision is to be made;
- b) information about the decision;
- c) an indication as to whether the decision will be made by the Cabinet or by an individual and, if the latter, the name and title of that person;
- d) the date on which, or the period within which, the decision will to be made;
- e) a list of the documents submitted to the decision maker for consideration in relation to the decision;
- f) the address of the Civic Centre, from where, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed will be available;
- g) a statement that other documents relevant to the decision may be submitted to the decision maker; and
- h) the procedure for requesting details of those documents (if any) as they become available.

#### **4.6.12            GENERAL EXCEPTION TO RULE 4.6.10**

4.6.12.1            If a matter which is likely to be a key decision has not been published in accordance with Rule 4.6.10, then subject to Rule 4.6.13 (special urgency), the decision may still be taken if:

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<sup>1</sup> See also: [Key Decisions Practice Note, available on the Council's website.](#)

- a) it must be taken by such a date that it is impracticable for it to be deferred;
- b) the Designated Officer has informed the chair of the Overview and Scrutiny Committee, in writing, of the matter on which the decision is to be made; the Designated Officer has published a notice at the Civic Centre stating
- c) the decision to be taken, when it will be taken and by whom; and at least five clear days have passed since (b) and (c) above were complied with.
- d)

4.6.12.2 Where such a key decision is taken collectively, it must be taken in public, unless it is likely that confidential or exempt information will be disclosed.

4.6.12.3 If a decision needs to be added to an Executive Decisions Notice which has already been published, the chair of the Overview and Scrutiny Committee will be notified of the intention to do so and given details of the decision to be taken, when it will be taken and by whom.

#### **4.6.13 SPECIAL URGENCY FOR RULE 4.6.10**

4.6.13.1 If the requirement in Rule 4.6.12 to give five clear days' notice of the intention to take a decision cannot be followed owing to the need to take the decision sooner, the decision may only be taken if the agreement of the chair of the Overview and Scrutiny Committee (or, in their absence, the Committee's vice chair, or the Mayor or Deputy Mayor, in that order) is obtained.

#### **4.6.14 REPORT TO COUNCIL WHERE RULE 4.6.10-13 DO NOT APPLY**

##### **When the Overview and Scrutiny Committee can require a report**

4.6.14.1 If the Overview and Scrutiny Committee thinks a key decision has been taken which was not in compliance with Rules 4.6.10-13, the Committee, by resolution at one of its meetings, may require the Cabinet to report to Full Council at its next available meeting on the reasons for taking the decision. That power may also be exercised by the Designated Officer on receipt of a written request to do so from five members of the Committee.

#### **4.6.15 CABINET'S REPORT TO FULL COUNCIL**

4.6.15.1 If required to do so under Rule 4.6.14, the Cabinet will prepare a report for submission to the next meeting of Full Council. If the meeting of Full Council is within 10 working days of the resolution of the Overview and Scrutiny Committee or receipt of the written request from five of its members, the report will be submitted to Full Council meeting after that.

4.6.15.2 The report to Full Council will set out particulars of the decision, the circumstances surrounding it and, if the Leader is of the opinion that the



decision was not a key decision, the reasons for that opinion.

#### **4.6.16 QUARTERLY REPORTS ON URGENCY DECISIONS**

- 4.6.16.1 The Leader will submit quarterly reports to Full Council summarising any Cabinet decisions taken in the circumstances set out in Rule 4.6.13 (special urgency).

#### **4.6.17 RECORD OF EXECUTIVE DECISIONS**

##### **Cabinet**

- 4.6.17.1 The Designated Officer will be responsible for keeping a record of all decisions taken at meetings of the Cabinet and its committees. That record will take two forms:

- a) a summary of the decisions taken, which will be published within two working days of the meeting; and
- b) a fuller record of the meeting, which will be published within 10 working days of the meeting and will include: -
  - i. the date and details of decisions;
  - ii. the reasons for them;
  - iii. the alternative options considered in each case;
  - iv. the names of those who made the decisions;
  - v. any papers relied on, except those containing exempt or confidential information;
  - vi. details of any conflict of interests and of any dispensation granted.

- 4.6.17.2 The papers in Rule 4.6.17.2 b)(v) above shall be available for inspection by Councillors and the public. Unless otherwise stated, the reports to the meeting shall be deemed to be the papers relied on. Any additional papers not circulated with the agenda shall be mentioned in the minutes.

##### **Key Decisions by an Officer**

- 4.6.17.3 As soon as a key decision has been taken by an officer, they will prepare, or instruct the Designated Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected.

#### **4.6.18 CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

- 4.6.18.1 Cabinet meetings relating to matters which are not key decisions will be held in public unless a relevant exemption applies.

**4.6.19      ACCESS TO DOCUMENTS BY OVERVIEW AND SCRUTINY COMMITTEE**

**Rights to copies**

4.6.19.1      Subject to Rule 4.6.19.2 below, the Overview and Scrutiny Committee, or a councillor appointed to that committee, will be entitled to request copies of any document which is in the possession or control of the Cabinet or its committees and which contains information relating to any business carried out at a public or private meeting of the Cabinet or its committees.

4.6.19.2      Any document so requested should be supplied as soon as is reasonably practicable and in any case no later than 10 clear days after the request has been received.

4.6.19.3      Where Cabinet determines that a member of the Overview and Scrutiny committee is not entitled to a copy of a document or part of any such document for a reason set out in Rule 4.6.19.4 it must provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

**Limit on rights**

4.6.19.4      The Overview and Scrutiny Committee will not be entitled to:

- a) any document that is in draft form;
- b) any part of a document that contains Exempt or Confidential information and the public interest in maintaining the exemption outweighs the public interest in disclosing it, unless that information is relevant to an action or decision it is reviewing or scrutinising or intends to scrutinise; or
- c) the advice of a political adviser.

**4.6.20      ADDITIONAL RIGHTS OF ACCESS FOR COUNCILLORS**

**Material relating to previous business**

4.6.20.1      Councillors may inspect any document which is in the possession or under the control of the Cabinet or its committees and contains information relating to any business previously carried out at a meeting (including private meetings) unless either of the following applies:

- a) it contains exempt information and the public interest in maintaining the exemption outweighs the public interest in disclosing it; or
- b) it contains the advice of a political adviser.

**Material relating to key decisions**

4.6.20.2      All Councillors may inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet, its committees, its members or officers which relates to any key decision

unless paragraphs (a) or (b) of Rule 4.6.20.1 above applies.

**Nature of rights**

4.6.20.3 These rights of a councillor are additional to any other rights he may have.

**4.6.21 PROCEDURES PRIOR TO PRIVATE MEETING**

4.6.21.1 At least 28 days before a private meeting of the Executive: -

- a) notice of intention to hold the meeting must be made available at the Council's offices; and
- b) that Notice must be published on the Council's website.

4.6.21.2 A Notice under Rule 4.6.21.1 must include a statement of the reasons for the meeting being held in private.

4.6.21.3 At least five clear days before a private meeting, a further notice of the intention to hold a meeting must be made available and published on the Council's website.

4.6.21.4 The notice published under Rule 4.6.21.3 must include: -

- a) a statement of the reasons for the meeting being held in private;
- b) details of any representations received by the Council about why the meeting should be held in public; and
- c) a statement of the response to any such representations.

**4.6.22 ITEMS OF URGENT BUSINESS**

4.6.22.1 The chair of a meeting may, for reasons to be stated at the meeting and recorded in the minutes, accept as urgent business items which did not appear on the agenda for a meeting when it was published and which were not available for public inspection five clear working days before the meeting. If the decision is a Key Decision the procedure in Rule 4.6.13 must have been followed. The reasons for the urgent business will state why the item did not appear on the published agenda, why it is urgent, and why it cannot await the next meeting.

ANNEX A**ACCESS TO INFORMATION – EXEMPT INFORMATION**

The Local Government Act 1972 specifies certain categories of information as “exempt”. Where exempt information is to be considered, members of the public will be asked to leave the meeting whilst that information is discussed. Similarly, reports or other documents which contain exempt information will not be made available to the public. The categories of information are qualified by a number of conditions and by the public interest test which, in certain circumstances, may require the exempt information to be disclosed if the public interest would be better served by revealing.

| Category |  | Condition  |
|----------|--|--|
| 1        | Information relating to any individual   |  |
| 2        | Information which is likely to reveal the identity of an individual  |  |
| 3        | Information relating to the financial or business affairs of any particular person (including the authority holding that information)  | Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under—<br>(a) the Companies Acts (as defined in section 2 of the Companies Act 2006);<br>(b) the Friendly Societies Act 1974;<br>(c) the Friendly Societies Act 1992;<br>(d) the Co-operative and Community Benefit Societies Act 2014;<br>(e) the Building Societies Act 1986;<br>or<br>(f) the Charities Act 2011. |
| 4        | Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority | “Employee” means a person employed under a contract of service.  |
| 5        | Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings   |  |
| 6        | Information which reveals that the authority proposes—<br>(a) to give under any enactment a notice under or by virtue of which   |  |

|   |  |  |
|---|--|--|
|   | requirements are imposed on a person; or<br>(b) to make an order or direction under any enactment                                |  |
| 7   | Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime |  |
| Information which falls within paragraphs 1 to 7 above is exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. |  |  |
| Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.         |  |  |

### **The Public Interest Test**

The public interest test is that used by the Freedom of Information Act. Even though a report may technically contain exempt information falling within one of the above categories it is possible that the application of the public interest test will still result in it being published.

The public interest test is defined as:

“In all the circumstances of the case, the public interest in maintaining the exemption (i.e. not disclosing the information) outweighs the public interest in disclosing it”

ANNEX B

**SUMMARY OF RIGHTS TO ATTEND MEETINGS  
AND TO INSPECT AND COPY DOCUMENTS**

Access to Meetings

1. Meetings of Chelmsford City Council, its Cabinet and any of their committees are normally open to the public.
2. The public may be excluded from a meeting when it is likely that “exempt “ information will be revealed. The categories of exempt information are set out in Annex A to these Rules. These are subject to the “public interest test”, which is also defined in that Annex.

Access to Agendas and Reports

3. Copies of the agenda and reports for a meeting are open for public inspection, except for any report which is not likely to be dealt with in the public part of a meeting. Reports and other documents will be available at least five clear days before the meeting, unless the meeting is convened at shorter notice or if an item is added after the agenda has been published. The agenda and reports will be available for inspection on the Council’s website, [www.chelmsford.gov.uk](http://www.chelmsford.gov.uk) and on request at the Civic Centre, Chelmsford, Monday to Friday.
4. Copies of the agenda and reports will be available at the meeting. The public have a right to inspect reports for up to six years after a meeting.

Inspection of Minutes

5. The minutes of a meeting will be available for inspection at the Civic Centre, Chelmsford between 8.45am and 4.45pm Monday to Friday and on the Council’s website, [www.chelmsford.gov.uk](http://www.chelmsford.gov.uk). The public have a right to inspect minutes for up to six years after a meeting.

Inspection of Background Papers

6. Members of the public may inspect a list of the background papers for any report and a copy of each of the documents on that list. They may do so from the time the agenda is published and for four years from the date of the meeting. Background papers containing exempt or confidential information are not open to inspection.
7. Background papers are documents which relate to the subject matter of a report and on which the report or part of it is based and been relied on in the report’s production. They do not include published works. Requests to inspect the background papers should be made to the Service of the officer whose name appears on the report as its author.

Availability of Other Information

8. The following is a summary of the main additional information which is available for inspection by the public from the named officer in each case:

- the name and address of all councillors, their addresses and wards they represent, and the membership of the Cabinet and all committees (Democracy Team Manager)
- the Register of Members' Interests (Democracy Team Manager)
- documents deposited with the Council for public inspection either as required by an Act of Parliament or as part of consultation by the Council or other public bodies (Legal and Democratic Services Manager in the first instance)
- the Council's Constitution (which contains among other things Procedure Rules, Financial and Contracts Rules) (Democracy Team Manager)
- the Council's accounts and certain other supporting financial information (available to any local government elector registered in Chelmsford) (Director of Financial Services)
- any byelaws made by the Council or affecting Chelmsford (Legal and Democratic Service Manager)
- other documents and information which the Council is required by law to make available for public inspection

### Fees

9. The Council may, where it is permitted to do so, make a charge for providing copies of or extracts from background papers, reports to meetings and other documents and information it is required by law to make available to the public. The fees will be in accordance with the schedule of fees and charges applicable at the time and will be made known when the request is made.

### Freedom of Information

10. The Freedom of Information Act 2000 gives the public a general right to request information from the Council.

## **THE PUBLIC'S RIGHT TO ASK QUESTIONS AND MAKE STATEMENTS AT MEETINGS**

The Council welcomes and encourages public attendance at meetings of the Council, Cabinet and Committees, where these are open to the public.

To enable members of the public to express their views or ask questions to councillors at meetings an item called "Public Questions" appears on the agendas for most meetings. At that point in the agenda the public have a chance to ask questions (in the case of Council meetings) or to ask questions or make statements (in the case of other meetings).

The following arrangements have been made for Public Questions:

1. Thirty minutes are set aside for questions at Council meetings.
2. Twenty minutes are set aside for questions and statements at other meetings.
3. A limit of two minutes is set for each question to be asked or statement made.
4. Those time limits may be extended at the discretion of the chair of the meeting.
5. Questions, and statements if these may be made, must relate to matters that affect the City and for which the member body to which they are addressed is responsible.
6. Anyone wishing to ask a question, or make a statement, should notify the Legal and Democratic Services Manager not later than 24 hours before the start of the meeting at which it is to be raised. Copies of valid questions or comments are published on the Council's website no later than 6 hours before meeting.
7. Questions should normally be asked, or statements made, under the item for Public Questions. However, if they relate to matters already on the agenda the chair of the meeting may decide to deal with them as part of the meeting's consideration of those items.
8. Questions will normally be put in the order in which they have been received, although the chair of the meeting may group together questions on a common subject.
9. The chair of the meeting may not allow a question if it:
  - (a) concerns a matter for which the Council, Cabinet or committee is not responsible or does not affect the City;
  - (b) is defamatory, frivolous or offensive;
  - (c) is substantially the same as another question to the same meeting;
  - (d) requires disclosure of exempt or confidential information.
10. The chair has discretion to allow a supplementary question to be asked.



11. The person to whom a question is asked may decline to answer but shall give a reason for not doing so. Where a response is given, the question will be answered without discussion and the answer given will be adequate and reasonable in the context of the question. Where a question cannot be answered orally at a meeting, a written response may be provided after the meeting.

## PART 4.7

# RECORDING OF MEETINGS

4.7.0 **DEFINITIONS**

4.7.0.1 “meeting(s)” means:

- a) meeting(s) of Chelmsford City Council, its Cabinet and any sub-committees of the Cabinet, the committees and joint committees appointed by the Council and any sub-committees of those committees.
- b) It does not include, for example, advisory panels, working groups and task and finish groups, where the recording of meetings is prohibited.

4.7.0.2 the terms “record”, “recording” and “recorded” relate to and should be regarded as meaning:

- a) filming, photographing or making an audio recording of proceedings at a meeting;
- b) the use of any other means, such a social media or blogging, to enable persons not present to see or hear proceedings at a meeting as it takes place or later; or
- c) reporting or providing commentary on proceedings at a meeting so that the report or commentary is available as the meeting takes place or later to persons not present.

4.7.1 **RIGHT TO RECORD**

4.7.1.1 When a meeting is open to the public anyone attending may record it, subject to the principles set out in this policy and particularly the rules set out in Rule 4.7.5.

4.7.1.2 Anyone wishing to record a meeting must inform the Chair or the Democratic Services Officer (DSO) for the meeting before it begins. The Chair will also ask at the start of the meeting whether anyone present intends to record the meeting.

4.7.2 **FACILITIES**

4.7.2.1 The Council will make reasonable facilities available to assist anyone wishing to record proceedings of its meetings. This will include:

- a) providing a table at each meeting for use by the press to assist with taking their reports; and
- b) designating an area in the public gallery, normally in or near the front row, for use by anyone wishing to record, film, photograph or broadcast proceedings.

4.7.2.2 The Council will not:

- a) provide any additional equipment to enable the recording beyond the normal microphone systems (if any) employed at the meeting; or
- b) facilitate additional internet access.

4.7.2.3 If and to the extent that Wi-Fi is available in the meeting room, the

Council will not be liable for any disconnection, suspension, interruption or termination to the Wi-Fi service.

#### 4.7.3 **NOTICE OF RECORDING**

4.7.3.1 Those attending the meeting will be made aware of the possibility that it will be recorded by:

- a) a note to that effect on the agenda for the meeting;
- b) the chair making an announcement to that effect at the beginning of the meeting; and
- c) the display of a notice to that effect at the entrance to the room in which the meeting is taking place

4.7.3.2 Councillors, officers and those attending a meeting in an official capacity should expect to be recorded during meetings open to the public.

#### 4.7.4 **DISRUPTION TO MEETING**

4.7.4.1 If the recording of a meeting causes disruption to the orderly conduct of the meeting the person doing the recording, after a warning from the chair, may be required to stop and leave the meeting.

4.7.4.2 Examples of disruption include, but are not limited to:

- a) moving to areas outside of the designated recording area for the purpose of recording the meeting, without the permission of the chair;
- b) generating excessive noise in making a recording or during the setting up or re-siting of equipment during the meeting;
- c) intrusive lighting or use of flash photography;
- d) attempting to address the meeting without permission or asking for statements to be repeated for the purpose of recording; and
- e) seeking to record members of the public against their wishes.

#### 4.7.5 **RULES FOR RECORDING**

4.7.5.1 Those making or wishing to make recordings must observe the following rules:

- a) Filming of children under the age of 18 who are taking part in or attending meetings is prohibited unless the consent of their parent/guardian is obtained and a written copy supplied to the DSO in advance of the meeting.
- b) Only those participating in the meeting can be recorded. This includes members of the body, officers of the Council, those that have been asked to speak at the meeting, and members of the public that have officially asked to speak at the meeting. However, members

of the public speaking officially at a meeting who have informed the Chair that they do not wish to be recorded by another member of the public must have that wish respected.

- c) Oral reporting or commentary is not permitted during a meeting, but may be provided outside of or after the meeting.
- d) Recording of the public gallery is generally not permitted, unless it is of those referred to in 4.7.5.1 d) above who have no objection to being recorded.
- e) A person taking reports must be courteous and respectful to others present at all times.
- f) Those recording proceedings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings. This includes refraining from editing an image or views expressed in a way that may ridicule, or show a lack of respect towards, anyone being recorded.
- g) Electronic devices used for taking reports such as laptops, tablets, cameras or mobile phones must not be audible during proceedings and should be placed on 'silent' settings.
- h) A person must remain silent whilst making a recording unless they are asked to comment.
- i) A person wishing to film, take sound recordings or photograph a Council meeting which involves using large equipment (i.e. that which cannot be hand held or is floor mounted), the making of special arrangements, or the use of flash photography must obtain approval from the Council's Democratic Services. Approval in these circumstances will be subject to practical considerations and the constraints of specific meeting rooms. The decision of Democratic Services is final and any attempt to record the meeting using such equipment will be prohibited. The person seeking to do so will only be allowed to remain in the meeting if the equipment is left outside the meeting room and switched off. At least 48 hours' notice should be given of a request to use large equipment or to make special arrangements.
- j) The Council reserves the right to prescribe the location and arrangements for setting up and dismantling of any film or sound recording equipment.
- k) Filming using video cameras, mobile phones, tablets, laptops or other devices must be carried out in such a way as to ensure the viewing of proceedings by others present is not obscured at any time. Those using such equipment may not move around the room to record proceedings.

- 4.7.6.1 A councillor attending a meeting either as a member of the meeting or as a member of the public shall have the same rights to record a meeting, and will be subject to the same requirements and restrictions, as set out in this policy, as any member of the public.

4.7.7 **CLAIMS AND LIABILITIES**

- 4.7.7.1 Any person or organisation choosing to film, photograph, record or broadcast any meeting is responsible for any claims or other liability resulting from their activities.

- 4.7.7.2 By choosing to record or broadcast proceedings, they accept that they are required to indemnify the Council, its members and officers in relation to any such claims or liabilities.

4.7.8 **RECORDING OF MEETINGS BY THE COUNCIL**

- 4.7.8.1 The Council has facilities to record meetings. Where it chooses to do so the Chair will make an announcement at the beginning of the meeting.

- 4.7.8.2 The minutes of the meeting, and no recording of it, will constitute the formal record of that meeting.

- 4.7.8.3 Recordings made by the Council of meetings will be retained for three months after the date of the meeting unless the Monitoring Officer is of the opinion that an individual recording should be kept for longer.

## PART 4.8

# OFFICER EMPLOYMENT RULES

## **Contents**

|       |   |         |
|-------|---|---------|
| 4.8.1 | Introduction  | Page 1  |
| 4.8.2 | General Provisions Applicable to Recruitment of all Members of Staff  | Page 1  |
| 4.8.3 | Cabinet Objection Procedure to be followed for the Purposes of Rules 4.8.4, 4.8.5, 4.8.6 And 4.8.7  | Page 3  |
| 4.8.4 | The Appointment of Persons to Posts below Director Level  | Page 4  |
| 4.8.5 | The Appointment of the Council's Head of Paid Service, Section 151 Officer, Monitoring Officer and Directors                                    | Page 5  |
| 4.8.6 | Dismissal and Disciplinary Action - Members of Staff below the Level of Director (Excluding the Section 151 Officer and the Monitoring Officer) | Page 7  |
| 4.8.7 | Dismissal and Disciplinary Action – Head of Paid Service, Section 151 Officer, Monitoring Officer and Directors                                 | Page 8  |
| 4.8.8 | Miscellaneous provisions relating to Members of Staff   | Page 11 |



#### **4.8.1            INTRODUCTION**

4.8.1.1            These rules relate to the Council's members of staff – that is to say, any person(s) appointed to or holding a paid office or employment with the Council. The rules cover the following areas in relation to members of staff:

- a)      recruitment and appointment;
- b)      the taking of disciplinary action,
- c)      dismissal; and
- d)      miscellaneous matters.

4.8.1.2            The rules contain special procedures applicable to the appointment and dismissal of, and the taking of disciplinary action against, the Council's Head of Paid service. Section 151 Officer, Monitoring Officer, and Directors as defined in rule 4.8.5.1 below.

#### **Interpretation of Employment Procedure Rules**

4.8.1.3            Under Regulation 3(1) of The Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) ("the 2001 Regulations") the Council is required to incorporate within its standing orders, relating to staff, the provisions set out in:

- a)      Part II of Schedule 1 of the 2001 Regulations or provisions to the like effect; and
- b)      Schedule 3 to the 2001 Regulations or provisions to like the effect.

4.8.1.4            These Rules seek to incorporate to the like effect those provisions., If, however, it transpires that these Rules are in any respect deficient or inconsistent with the 2001 Regulations then the provisions of the 2001 Regulations must take precedence and prevail.

4.8.1.5            These Rules should be read in conjunction with the guidance contained within the accompanying linked Practice Note.

#### **4.8.2            GENERAL PROVISIONS APPLICABLE TO RECRUITMENT OF ALL MEMBERS OF STAFF**

4.8.2.1            The Council's Human Resources Services Manager ("HR Manager") shall, before seeking to recruit to a particular post, ensure that a written statement has been drawn up which specifies:

- a)      the duties and responsibilities of the post;

- b) the qualifications, experience or qualities it requires/seeks in candidates for the post; and
- c) the pay grade, other benefits (if relevant) and terms and conditions applicable to the post.

4.8.2.2 The statement required by rule 4.8.2.1(a) and (b) above will normally take the format of a traditional job description and person specification.

4.8.2.3 The Officer seeking to recruit will not do so unless an [“Authority to Fill” form](#) has been completed and submitted to the HR Manager, which requires confirmation to do so from the Council’s Management Team and from Financial Services that the necessary budget is in place.

#### **Requirement to advertise posts**

4.8.2.4 Except when it is proposed that the appointment to a post be made exclusively from among existing members of staff, the Council’s HR Manager shall make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons external to the Council who are qualified to apply for it.

4.8.2.5 Such steps may include advertising in the local or national press, at the Job Centre, and in municipal or professional journals.

4.8.2.6 Where it is proposed that the appointment to a post be made exclusively from among existing members of staff, the Council shall take such steps as it considers appropriate for the purposes of ensuring that members of staff who are qualified to apply for the post are made aware of the vacancy, such as but not limited to notifying the vacancy on the Council’s intranet.

#### **Equal opportunities/appointments to be made on merit**

4.8.2.7 The Council will not unlawfully discriminate in the recruitment and appointment of members of staff.

4.8.2.8 All appointments shall be made solely on merit.

#### **Applicants required to disclose whether they are related to any councillor or member of staff and the consequences of failing to do so**

4.8.2.9 Applicants for any post with the Council shall be required to disclose in writing at the time of application whether, to the best of their knowledge:

- a) they are the spouse, partner, parent, grandparent, child, step child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or member of staff of the Council; or

- b) they are the spouse or partner of any of the above-mentioned persons.

4.8.2.10 Any applicant who fails to disclose at the time of application that they are related to a councillor or officer shall be disqualified from being considered for the post. Where the relationship does not come to the Council's notice until after the appointment has been made, they may be dismissed.

**Applicants prohibited from seeking support from councillors for appointment to a post**

4.8.2.11 No applicant for a post with the Council shall seek either directly or indirectly (e.g. through another person) the support of any councillor for their appointment to the post. Any applicant who does so will be disqualified from being considered for the post. Where such canvassing does not come to the notice of the Council until after appointment, they may be dismissed.

**Councillors prohibited from seeking posts for individuals etc.**

4.8.2.12 Councillors must not seek posts for any individual, nor recommend anyone for appointment or promotion.

4.8.2.13 A councillor may, however, provide a written reference for an applicant where –

- a) the applicant has named them as a referee; and
- b) the reference is requested by the HR Manager in the ordinary course of the recruitment process.

**Prospective applicants to be made aware of disclosure requirements and prohibition on canvassing**

4.8.2.14 The HR Manager shall ensure that the disclosure requirements and prohibition on canvassing are brought to the attention of all prospective applicants.

**4.8.3 CABINET OBJECTION PROCEDURE TO BE FOLLOWED FOR THE PURPOSES OF RULES 4.8.4, 4.8.5, 4.8.6 AND 4.8.7**

4.8.3.1 No offer of appointment or dismissal shall be made under these rules until:

- a) The person responsible for making the appointment ('the appointor') or imposing a dismissal ('the dismisor') has notified the HR Manager of the name of the person to whom the proposed action relates and any other particulars considered relevant to that action;

- b) The HR Manager has then notified every member of the Cabinet of the name of the person to whom the proposed action relates and other particulars (if any) considered by the appointor or dismissor to be relevant to that action;
- c) The HR Manager has notified every member of the Cabinet of the period within which any objection to the making of an offer of the decision to dismiss is to be made to the HR Services Manager by the leader, on behalf of the Cabinet.

4.8.3.2 It should be noted that for the purposes of this Rule;

- a) Any objections must be made through the Leader; and
- b) The period for making any objection is three clear working days (“the three day period”)

4.8.3.3 In addition to the above pre-requisites an offer of appointment, or decision to dismiss, must not be made unless one of the following criteria has been fulfilled:

- a) The Leader has, within the three-day period notified the appointor or dismissor that neither they nor any member of the Cabinet has any objection to the making of the offer;
- b) The HR Manager has notified the appointor or dismissor that no objection was received within the three-day period; **OR**
- c) The appointor or dismissor is satisfied that any objection received within that three-day period is not material or well-founded.

4.8.3.4 The role of the HR Services Manager in the Cabinet objection procedure shall be undertaken by the Director of Corporate Services where the post to be filled is that of the HR Services Manager, or they are otherwise unavailable.

4.8.3.5 Reference to the “Leader” in this rule means the “Leader of the Council” as defined in Part 2 of the Council’s Constitution.

#### **4.8.4 THE APPOINTMENT OF PERSONS TO POSTS BELOW DIRECTOR LEVEL**

##### **Responsibility for the appointment of persons to posts below Director level (except Monitoring Officer)**

4.8.4.1 The Chief Executive (as designated Head of Paid Service) or an officer nominated by them, shall be responsible for the recruitment and

appointment of all members of staff below the level of Director, except the appointment of the Monitoring Officer.

4.8.4.2 In the case of the proposed appointment of a person in the categories described below the Cabinet Objection Procedure set out in Rule 4.8.3 above **must** be followed prior to the making of an offer of appointment to that person:

- a) the post of Head of Paid Service, or
- b) any other post which reports direct to a Director of the Council (other than a post where the duties are solely secretarial or clerical or are otherwise in the nature of support services).

**4.8.5 THE APPOINTMENT OF THE COUNCIL'S HEAD OF PAID SERVICE, SECTION 151 OFFICER, MONITORING OFFICER AND DIRECTORS**

**Scope**

4.8.5.1 The provisions set out Rule 4.8.5 are applicable to the recruitment and appointment to the following Council posts only:

- a) The **Head of Paid Service** - the officer designated under section 4(1) of the Local Government and Housing Act 1989 as the Head of Paid Service, which will be carried out by the officer specified in [Part 2 - Article 13 of the Council's Constitution](#)
- b) The **Section 151 Officer** - the officer designated for the purposes of section 151 of the Local Government Act 1972 and section 6 of the Local Government and Housing Act 1989 as the Chief Finance Officer – having responsibility for the administration of the Council's financial affairs, which will be carried out by the officer specified in [Part 2 - Article 13 of the Council's Constitution](#)
- c) The **Monitoring Officer** – the officer designated under section 5(1) of the Local Government and Housing Act 1989 as the Council's Monitoring, which will be carried out by the officer specified in [Part 2 - Article 13 of the Council's Constitution](#)
- d) The **Directors** - the Council's non-statutory chief officers within the meaning of section 2 (7) of the Local Government and Housing Act 1989. For the avoidance of doubt this definition includes the Chief Executive, if that post-holder's role does not incorporate the functions of the Head of Paid Service.

### **Appointments to be made by Employment Committee**

- 4.8.5.2 The Council's Employment Committee shall be responsible for the recruitment and appointment of persons to the posts of the Head of Paid Service, Section 151 Officer, Monitoring Officer and a Director in accordance with the terms of reference (set out in [Part 3.4 of the Council's Constitution](#)) and subject to the requirements and limitations set out below.
- a) At least one member of the Cabinet must be a member of the Employment Committee.
  - b) The Employment Committee will be advised by the Chief Executive and the Director of Corporate Services or their nominees.
  - c) The Employment Committee may, where it considers it appropriate to do so, employ the services of a senior officer from another local authority or an external consultant to provide support or specialist advice or guidance in respect of any aspect of recruitment to a particular post.
  - d) Applicants for the posts of Head of Paid Service, Section 151 Officer, Monitoring Officer, or Director will normally be personally interviewed by the Employment Committee. However, the Employment Committee may at its absolute discretion dispense with the requirement for an interview.

### **Requirement to follow Cabinet objection procedure before making an offer of appointment to the post of Chief Executive, section 151 officer, Monitoring Officer or a Director**

- 4.8.5.3 No offer of appointment shall be made to an applicant for the post of Head of Paid Service, Section 151 Officer, Monitoring Officer or Director until the Cabinet Objection Procedure in Rule 4.8.3 has been followed
- 4.8.5.4 Where an appointment is to the post of Head of Paid Service, Chief Executive or a permanent appointment to the post of Monitoring Officer, Rule 4.8.5.5 below must also be adhered to before the appointment can be confirmed.

### **Full Council must approve appointment of Chief Executive and Monitoring Officer**

- 4.8.5.5 Where it is proposed to appoint a person to the post of Head of Paid Service, Chief Executive or permanent Monitoring Officer, full Council must first approve the appointment before an offer of appointment is made to that person.

**Appointment of interim section 151 Officer, Monitoring Officer or Director**

4.8.5.6 In order to provide necessary cover, the Chief Executive, and not the Employment Committee, may appoint a person to the post of Section 151 Officer, Monitoring Officer or Director on a strictly short term interim or temporary basis, pending the recruitment and appointment of a person to the permanent post.

4.8.5.7 Before the offer of an interim or temporary appointment to the post Section 151 Officer, Monitoring Officer or Director is made, the Chief Executive must first comply with the Cabinet objection process set out in Rule 4.8.3 above.

**4.8.6 DISMISSAL AND DISCIPLINARY ACTION - MEMBERS OF STAFF BELOW THE LEVEL OF DIRECTOR (EXCLUDING THE SECTION 151 OFFICER AND THE MONITORING OFFICER)**

**Scope of Rule 4.8.6**

4.8.6.1 The provisions set out in this rule are applicable to the dismissal of and the taking of disciplinary action against members of staff below the level of Director, except for the dismissal or disciplinary action in relation to the Monitoring Officer, or section 151 Officer where Rule 4.8.7 applies instead.

**Chief Executive to be responsible for the dismissal of and taking of disciplinary action against members of staff below Director level.**

4.8.6.2 The Chief Executive (as designated Head of Paid Service) or by an officer nominated by them, shall be responsible for the dismissal of and taking disciplinary action against all members of staff below the level of Director except the Monitoring Officer and section 151 Officer where the procedure in Rule 4.8.7 must be followed.

4.8.6.3 Councillors will not be involved in the taking of disciplinary action against members of staff below the level of Director except in the following circumstances:

- a) where their involvement is considered necessary for the purpose of carrying out an investigation or inquiry into alleged misconduct; or
- b) where they are a member of the Cabinet and the Cabinet objection process is applicable in relation to a proposed dismissal.

**The Council's Disciplinary Procedures to be followed**

4.8.6.4 The dismissal of, or disciplinary action against, officers below the level of Director shall be carried out in accordance with:

- a) the Council's Disciplinary Procedures for the time being in force, and
- b) any delegations to officers.

**Dismissal of Head of Service or other officer falling within this Rule**

- 4.8.6.5 Notice of the dismissal of a Head of Service (or any other member of staff falling within this rule) must not be given until the Cabinet Objection Procedure has been followed.

**4.8.7 DISMISSAL AND DISCIPLINARY ACTION – HEAD OF PAID SERVICE, SECTION 151 OFFICER, MONITORING OFFICER AND DIRECTORS**

**Scope of this Rule**

- 4.8.7.1 The provisions set out in this rule are applicable to the dismissal of, and the taking of any disciplinary action against, the following members of staff as defined in Rule 4.8.5:

- a) Head of Paid Service
- b) Section 151 officer
- c) Monitoring Officer
- d) Directors

**Definition of “disciplinary action”**

- 4.8.7.2 The term “disciplinary action” has the same meaning as in the 2001 Regulations.

**Role of the Employment Committee**

- 4.8.7.3 The Council's Employment Committee is responsible for the dismissal of and taking of disciplinary action against the Head of Paid Service, section 151 Officer, Monitoring Officer and Directors subject to:

- a) in the case of dismissal, compliance with the Cabinet objection process set out in Rule 4.8.3 above; and
- b) the requirement that Full Council must approve the dismissal of the Head of Paid Service, Chief Executive, Section 151 Officer, and Monitoring Officer.

- 4.8.7.4 At least one member of the Cabinet must be a member of the Employment Committee.

- 4.8.7.5 The Employment Committee will be normally be advised by the Chief Executive and/or the Director of Corporate Services or their nominees. Where, however, the Chief Executive or Director of Corporate Services is the subject of the proposed dismissal or disciplinary action, or is too closely involved in the matter to undertake their role, then the Committee may ask another senior officer of the Council to undertake this role or alternatively employ the services of an external consultant or senior officer from another



authority.

4.8.7.6 In addition to the Employment Committee's ability to instruct an independent investigator as referred to in rule 4.8.7.5 above, the Employment Committee may employ the services of a senior officer from another local authority or an external consultant to provide it with specialist support, advice or guidance in respect of any aspect of the disciplinary process.

4.8.7.7 Any external appointment will be organised by the Director of Corporate Services or the HR Manager.

**Suspension of the Head of Paid Service, section 151 Officer, Monitoring Officer and Directors**

4.8.7.8 The Employment Committee may suspend the Head of Paid Service, section 151 officer, Monitoring Officer or any Director for the purpose of facilitating the proper and efficient investigation of alleged serious misconduct.

4.8.7.9 Suspension shall be on full pay.

4.8.7.10 If suspension has been in place for a period of two months the Employment Committee shall meet as soon as practicable on expiry of that period to review the suspension and determine whether it should continue.

**Emergency suspension**

4.8.7.11 The Chief Executive may suspend the section 151 officer, Monitoring Officer, or any Director in any case where, because of the nature and/or seriousness of the alleged or suspected misconduct, it is considered that immediate suspension is required.

4.8.7.12 The section 151 officer or the Monitoring Officer may suspend the Chief Executive where:

- a) the Leader or Chair of the Employment Committee has requested the emergency suspension, following receipt of a report from the section 151 officer and/or Monitoring Officer; and
- b) owing to the nature and/or seriousness of the alleged or suspected misconduct it is in the interests of the Council that suspension takes place immediately, rather than await referral to the Employment Committee.

4.8.7.13 Any emergency suspension shall be reported without any undue delay to members of the Employment Committee. A meeting of the Employment Committee must then be convened as soon as practicably possible, in order to consider whether to continue the suspension.

**Disciplinary action against Directors (excluding the section 151 officer).**

4.8.7.14 The Employment Committee may take any disciplinary action (including dismissal) in respect of Directors, excluding the section 151 officer who shall be dealt with in accordance with Rules 4.8.7.17 to 4.8.7.22 as

appropriate.

4.8.7.15 Before determining whether to take disciplinary action the Employment Committee must convene a hearing and allow the Director concerned the opportunity to make representations.

4.8.7.16 Before dismissing or issuing a notice of dismissal, the Employment Committee must follow the Cabinet Objection Procedure set out in Rule 4.8.3 above.

**Disciplinary action against Head of Paid Service, section 151 officer, and the Monitoring Officer**

4.8.7.17 The Employment Committee may:

- a) take any disciplinary action **short of dismissal**; or
- b) if and when properly constituted as a “Panel” pursuant to Schedule 3 of the 2001 Regulations, recommend to full Council that a notice of dismissal be issued.

**Full Council’s approval required for dismissal of Chief Executive, the section 151 officer, or the Monitoring Officer**

4.8.7.18 **Only Full Council** can approve the dismissal of the Chief Executive, the section 151 officer and the Monitoring Officer.

4.8.7.19 Before taking a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular:

- a) any advice, views or recommendations of the Employment Committee
- b) the conclusions of any investigation into the proposed dismissal; and
- c) any representations from the officer liable to be dismissed.

4.8.7.20 The requirement that only Full Council can approve the dismissal of the Head of Paid service, Chief Executive, section 151 officer or the Monitoring Officer, is not confined to a dismissal related to disciplinary action, but is applicable to dismissal for **any** reason including redundancy or permanent ill health.

**Employment Committee required to follow Cabinet Objection Procedure where dismissal proposed**

4.8.7.21 Notice of the dismissal of the Head of Paid Service, section 151 Officer, Monitoring Officer, or any Corporate Director must not be given until the Cabinet Objection Procedure in Rule 4.8.3 has been followed.

4.8.7.22 The Employment Committee will undertake the Cabinet Objection Procedure under rule 4.8.3 before it forwards its report to Full Council recommending that any decision to dismiss is approved.

### **The Employment Appeals Committee**

- 4.8.7.23 The Council's Employment Appeals Committee shall, in accordance with its terms of reference (set out in Part 3.2 of the Council's Constitution) be responsible for hearing any appeals from:
- a) Directors (other than the section 151 officer) respect of any disciplinary action taken by the Employment Committee, including dismissal; and
  - b) the Chief Executive, section 151 officer, and the Monitoring Officer in respect of any disciplinary action *falling short of dismissal*.

### **4.8.8 MISCELLANEOUS PROVISIONS RELATING TO MEMBERS OF STAFF**

#### **Discussion of matters relating to individual members of staff at Council, Committees etc.**

- 4.8.8.1 No matter relating to any existing or former member of staff of the Council shall be discussed at any meeting of Full Council, its Committees, or Cabinet unless and until the meeting before which the matter is raised has first considered whether the public should first be excluded from the meeting.

#### **Interest of members of staff in contracts**

- 4.8.8.2 Any pecuniary interest of a member of staff in a contract (which has been disclosed in accordance with section 117 of the Local Government Act 1972) shall be recorded in a specific book kept and maintained by the Monitoring Officer. This may be inspected by any councillor.

## PART 4.9

# FINANCIAL RULES

## **Introduction**

- 4.9.1 These Financial Rules aim to provide guidance on what is expected from Elected Members, the Section 151 Officer, Directors, Service Managers and all other members of staff (Officers).
- The Financial Rules form part of our Constitution, which sets out the political and administrative arrangements for the running of the Council.
- 4.9.2 Directors/Service Managers are responsible for ensuring all Officers in their service areas are aware of the existence and content of the Council's Financial Rules and other internal regulatory documents, and that they comply with them.
- 4.9.3 Directors/Service Managers must ensure that all Officers have appropriate training in their Directorate or service area to meet the obligations of Council rules and policies.
- 4.9.4 Members and Officers are expected to conform to these rules. They do not provide a complete list but define the way Members and Officers are expected to operate. They are in place to protect both the Council and its employees. It is important that Members and Officers conform to the spirit of the rules, not only the specific rule.
- 4.9.5 To support Officers further, the Financial Rules are supported by Practice Notes, which are not part of the Constitution. If you need further advice, talk to your Line Manager, Director or get in touch with the Accountancy Services Manager (Section 151).
- 4.9.6 A Director may delegate any of their powers but still retains overall responsibility for compliance with these Rules, and in accordance with the Officer Scheme of Delegation, which can be found in Part 3.4 of the Constitution.

## **Responsibilities of All Officers**

- 4.9.7 Act to the highest standards of integrity, and exercise due care and attention when dealing with all aspects of the Council's finances.
- 4.9.8 Where Officers are unclear on any financial matter, they should seek advice from the Accountancy Team.
- 4.9.9 Conform to the Financial Rules. Any failure to conform to these Rules may be a disciplinary offence. If anyone is aware that these Financial Rules are not being followed, they should inform their manager or Accountancy Services Manager (Section 151).

- 4.9.10 Ensure the safety and security of assets and see that they are used in a legal and properly authorised manner. Assets retained by the Council must provide value for money (see Practice Note 1).
- 4.9.11 Inform the Procurement & Risk Services Manager and follow the whistleblowing procedures if there are reasons to suspect fraud or corruption (see Practice Note 2 - Fraud and Corruption).
- 4.9.12 Manage risks to the Council as part of day-to-day activities.
- 4.9.13 Officers when purchasing (ordering goods and services), should ensure:
- i) They have complied with and understood the Contract Procedure Rules
  - ii) Good practice as set in Practice Note 4 is followed
  - iii) Physical delivery of goods and services has taken place before receipting them on the financial system.
  - iv) An agreement to rent plant & equipment (lease) is not entered into without consulting with Accountancy Services Manager Section 151 officer.
  - v) Agreements to lease property (let out or rent) are not entered into without consulting with the Property Manager.
- Further content on ordering is included later in these Financial Rules.
- 4.9.14 Officers should not exceed the responsibilities and authority given to them by their Service Manager (and Director) and should conform to the Financial Rules and Contract Procedure Rules appropriate to those duties.

## **Service Managers**

- 4.9.15 The following items (4.9.16 to 4.9.25) are the responsibility of Service Managers, reflecting the delegation of financial management to them by the Council. These financial responsibilities are a key part of their role and failure to meet these could result in disciplinary action.
- The responsibilities are explained under the following headings:
- 4.9.16 Financial Controls & Authorisation
  - 4.9.17 Ordering of Goods and Services. Including Procurement & Payments of Grants
  - 4.9.18 Income Collection
  - 4.9.19 Budget Management (preparation and monitoring of revenue and capital)
  - 4.9.20 Fees and Charges

- 4.9.21 Grant Income
- 4.9.22 Staffing Financial Matters (in the context of financial management)
- 4.9.23 Taxation (including VAT)
- 4.9.24 Risk Management
- 4.9.25 Internal and External Audit obligations

Service Managers should ensure Officers within their Service:

- Are aware of Financial Rules: Ensure all Officers (temporary and permanent) in their service are aware of and understand the Financial Rules to which they must conform to carry out their role. This includes complying with “Key Decision” requirements as set out in Article 14 of the Constitution and any Practice Note on the subject.
- Are available to attend Audit & Risk Committee meetings when asked to do so.

#### 4.9.16 *Financial Controls & Authorisation*

- 4.9.16.1 Ensure that processes and controls are in place to make sure that the Council’s resources are properly applied. This includes responsibility for the prevention and detection of fraud and other illegal acts.
- 4.9.16.2 Ensure there is a clear and appropriate delegation of responsibilities and separation of duties in the service to reduce the risk of error and to prevent fraud, corruption, and collusion.
- 4.9.16.3 Ensure that authorisations within the ERP (i.e., Financial and HR systems) reflect the authority delegated to Officers.
- 4.9.16.4 Ensure Contract Procedure Rules are followed, and procurement guidance is sought from the Procurement Team.

#### 4.9.17 *Ordering of Goods and Services, including Procurement & Payment of Grants*

- 4.9.17.1 Ensure there is an approved budget for all planned expenditure before ordering goods and services.  
  
If insufficient budget is available to meet service obligations this should be discussed with the Accountancy Team. (See Appendix 1 to these rules - Virements and Supplementary Estimates).
- 4.9.17.2 The Financial system has appropriate workflow to control ordering of goods and services, but managers must ensure that operational

processes outside of the system are robust. For example, ensuring goods/services have been delivered before payment is made.

- 4.9.17.3 Ensure that the Contract Procedure Rules are followed, and Procurement team are notified of spend over £25k.
- 4.9.17.4 Foreign currency contracts or transactions must be agreed in advance with the Accountancy Services Manager (Section 151) (see Practice Note 7 - Contracts, External Partners and Third Party Working).
- 4.9.17.5 Act within the Practice Note 10 for Partnerships, where the Council is the lead authority for the partnership or holds the role of the partnership's treasurer.
- 4.9.17.6 Ensure that there are controls in place to prevent the loss or misuse of land, buildings, plant and equipment used by their Service (see Practice Note 1 – Assets).
- 4.9.17.7 Ensure the process for paying grants to the Third Sector (voluntary) organisations and other bodies are compliant with the standards of the Community Funding Scheme.
- 4.9.17.8 Ensure that leases for land, property, plant and/or equipment are not entered into without the authorisation of the Accountancy Services Manager (Section 151 officer).
- 4.9.17.9 Ensure that rental/lease agreements to occupy or let to tenants are not entered into without consultation with the Council's Property Manager.
- 4.9.18 *Income Collection*
- 4.9.18.1 Ensure Officers collect income and debt promptly and in accordance with the Council's debt management procedures, regularly reconciling it to the main financial system and to banking (see Practice Note 8 - Income collection and Debt Management procedures).
- 4.9.18.2 Arrange collection of income before or at the point of delivering the service wherever possible. This avoids losses due to non-payment.
- 4.9.18.3 Minimise the cost of processing income by limiting the use of cash and cheque payments by customers, wherever possible.



4.9.19 *Budget Management (Preparation and Monitoring of Revenue and Capital)*

- 4.9.19.1 Prepare revenue and capital estimates using the guidelines approved by Cabinet and provided by the Accountancy Services Manager (Section 151)(see 6 - Preparation of Estimates).
- 4.9.19.2 Prepare business cases for significant projects and undertake post project reviews in line with Practice Note 9.
- 4.9.19.3 Use financial information from the Council's ERP (Financial and HR Systems) and other supplementary sources to monitor and forecast current and future years' service budgets (income and expenditure).
- 4.9.19.4 Submit financial forecasts via the Council's Financial system. These submissions should be made in line with the timetable established by the Section 151 Officer. (See Practice Note 5 - Budgetary Control).
- 4.9.19.5 Identify at the earliest opportunity, and provide details to Accountancy Services of the results of, any service planning that will require additional budget provision.

4.9.20 *Fees and Charges, including setting*

4.9.20.1 **Fees and Charges amendments within the annual budget process.** *The budget guidelines approved annually by Council include a standard assumption for the average increase (for financial planning), this is not intended to be the outcome increase for any charge. Increases in charges should be determined in the manner below:*

- i. The proposals for fees and charges will be determined by the Director in consultation with the responsible Cabinet member.
- ii. The fees and charges proposals will have determined after making any appropriate comparisons including other local authorities and private sector providers of similar services in the appropriate geographical area. This will include consideration of equalities.
- iii. The charges do not have to match the assumed percentage increase in the financial planning.
- iv. Annually by the end of October Directors will provide for budget planning draft proposals for increases in fees and charges for their service areas.

The Budget report made each January will identify separately the increase in total monetary value of fees and charges by service area (a service as set out in the annual budget report), where they generate any increase over £200k compared to the previous year's budget.

4.9.20.2      **New Fees and Charges:** Chief Executive and Directors, in consultation with the relevant Cabinet Member, can establish any new fees and charges for any service (as set out in the annual budget report) for which they are responsible, provided it is expected to generate no more than £200,000 in a full year; and where the annual income generated by the new charge is estimated to above £200,000 then approval will be required from Councillors as follows:

- £200K to £1m – Cabinet
- Over £1m - Full Council

4.9.20.3      **Amendments to Fees and Charges:** Chief Executive and Directors, in consultation with the relevant Cabinet Member, can amend fees and charges for which they responsible, provided that any service area (as set out in the annual budget report) amendments generate no more than £200,000 in a full year. Changes to Fees and Charges that would be above £50,000 in a full year, require approval as follows :

- £200K to £1m – Cabinet
- Over £1m - Full Council

#### 4.9.21      *Grant Income*

4.9.21.1      Bids for grant income should be undertaken in consultation with Accountancy Services.

4.9.21.2      Ensure all expenditure is in line with grant conditions.

4.9.21.3      Maintain and retain requisite documentation to evidence that the grant has been properly managed in line with grant conditions.

#### 4.9.22      *Staffing (Financial matters)*

4.9.22.1      Provide the HR Services Manager with an establishment list for all Officers in their service, including contracted hours, and inform them of anything that affects the payment of salaries or other payments as soon as possible.

4.9.22.2      Ensure that the formal agreement of the Human Resources and Accountancy departments has been obtained before implementing a change to the establishment (this includes grades, hours, or number of posts).

- 4.9.22.3 Obtain agreement from HR and Procurement prior to engaging consultants or interims due to the potential significant tax implications for the Council.

4.9.23 *VAT and Taxation*

- 4.9.23.1 Ensure all financial activities are conducted in accordance with taxation requirements and all requisite supporting records are maintained and retained.

Seek advice on:

- VAT from Accountancy Services
- Construction Industry Tax from Accountancy Services
- Income Tax (employer taxation) from HR Services Manager

4.9.24 *Risk Management*

- 4.9.24.1 Act in accordance with the Risk Management Strategy and supporting guidance.

- 4.9.24.2 Notify the Procurement & Risk Services Manager of all insurance risks and potential claims as soon as known, providing necessary documentation in a timely manner (see Practice Note 6 - Insurance and Risk Management).

4.9.25 *Matters arising from Audits*

- 4.9.25.1 Co-operate with Internal and External Audit reviews and queries, including allowing Internal Audit and External Audit to have full, free and unrestricted access to and explanations of all functions, records, property and personnel pertinent to carrying out any engagement, subject to accountability for confidentiality and safeguarding of records and information.

- 4.9.25.2 Implement mitigating actions in a timely manner when risks are identified by Internal and External Audit (or other sources), either through audit recommendations, or alternative actions agreed with Internal/External Audit.

## **Responsibilities of the HR Services Manager**

- 4.9.26 Make payments through the payroll system to all employees or former employees of the Council.
- 4.9.27 Provide all Officers with a copy of these Financial Rules as part of their recruitment/induction process and ensure that their receipt is acknowledged and documented.
- 4.9.28 Ensure that, in accordance with the [Whistleblowing Policy](#), where allegations of fraud or misconduct relating to financial matters are made, the Whistleblowing Officer or their deputy, the Accountancy Services Manager (Section 151) and the Procurement and Risk Services Manager are informed.

### **Responsibilities of the Procurement and Risk Services Manager**

- 4.9.29 Oversee the corporate risk management framework, including periodic review of the Risk Management Strategy
- 4.9.30 Prepare Risk Management Reports for Management Team and Audit & Risk Committee.
- 4.9.31 Arrange the insurance programme, and review annually, to mitigate identified insurable risks.
- 4.9.32 Consult with Accountancy Services Manager (Section 151 Officer) on the financial implications of Insurance matters, including annual review of the insurance reserve.
- 4.9.33 Manage insurance claims in coordination with insurers.
- 4.9.34 Manage the approval of suppliers and oversight of the Social Value Procurement Policy.
- 4.9.35 Provide professional procurement support to all services in line with Contract Procurement Rules.
- 4.9.36 Update and maintain the Contract Procurement Rules and deliver training to Officers.
- 4.9.37 Investigate any suspected cases of fraud and corruption and inform the Cabinet Member with responsibility for Finance, Audit and Risk Committee Chair and keep the Accountancy Services Manager (Section 151) and Audit Services Manager informed of the findings of the investigation and agree the course of any investigation.
- 4.9.38 Maintain the Council's Strategy on Anti-Fraud and Corruption.

## **Responsibilities of the Accountancy Services Manager (Section 151)**

- 4.9.39 Prepare financial monitoring reports for Management Team, Audit & Risk Committee and Cabinet.
- 4.9.40 Prepare guidelines for and bring together the revenue and capital budgets including approval of fees and charges increases, virements, supplementary estimates and carry forwards for consideration by Full Council.
- 4.9.41 Provide guidelines for the format, content, and upkeep of all financial records and associated documents and maintain our accounting system.
- 4.9.42 Establish and maintain accounting policies and procedures.
- 4.9.43 Ensure there is robust digital ordering process,
- 4.9.44 Arrange all leases for vehicles, plant, and equipment.
- 4.9.45 Appoint and maintain banking and investment services.
- 4.9.46 Set the procedures for the collection of all money due to the Council by officers, agents or contractors and approve irrecoverable debts to be written off.
- 4.9.47 Recommend and implement treasury management decisions in line with the Council's policy statement and the Capital, Investment and Treasury strategies.
- 4.9.48 Manage the External Audit process, prepare the Annual report, Statement of Accounts and associated documents (e.g. Annual Governance Statement), in line with legislative requirements.
- 4.9.50 Review and update the Financial Rules.
- 4.9.51 Initiate disciplinary action if an employee is in breach of the Financial Rules.

## **Responsibilities of the Audit Services Manager**

- 4.9.52 Submit at least annually, to senior management and Audit & Risk Committee a risk based Internal Audit plan for review and approval, which is reviewed, adjusted and communicated as necessary, in response to changes to Chelmsford City Council's operations, risks, programmes, systems and controls
- 4.9.53 Ensure each engagement of the Internal Audit plan is executed,

including the establishment of objectives and scope, the assignment of appropriate and adequately supervised resources, the documentation of work programmes and testing results, and the communication of engagement results with applicable conclusions and recommendations to appropriate parties.

- 4.9.54 Follow up on engagement findings and corrective action, and report periodically to senior management and the Audit & Risk Committee any corrective actions not effectively implemented.
- 4.9.55 Deliver an annual audit opinion and report that can be used by the Council to inform its governance statement. The annual opinion will conclude on the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control.
- 4.9.56 Undertake work which does not contribute explicitly to the overall audit opinion. This might include certification of grant claims or consulting activities where Internal Audit provide independent and objective advice and guidance to management on risk and control issues within individual systems to improve those systems and processes where necessary.

## **Responsibilities of the Elected Members**

- 4.9.57 Act in accordance with the requirements of the Constitution and in particular the personal responsibilities placed on them by the Councillor's Code of Conduct in Part 5.1 of the Constitution.

## APPENDIX 1

### Virements and Supplementary Estimates

#### General Principles

These principles form the basis of the Virement and Supplementary estimate rules:

- i. Annually the Council will approve service budgets.
- ii. The purpose of the rules governing changes to approved budgets is to ensure key decisions are scrutinised effectively.
- iii. Changes to budgets that result from the transfer of functions between Directorates do not need formal approval.
- iv. Changes to budgets that do not impact on the objectives set by Council should where possible be dealt with under delegation. The financial limits on budget changes support this objective.
- v. Journals must not be used to reduce expenditure to match budgets on individual codes, nor should orders made against an inappropriate code, as this distorts the true budget position, does not reflect accurately expenditure and lacks appropriate authorisation.
- vi. When seeking approval for new budgets or changes of use of existing budgets, officers must provide sufficient information to give transparency to members as to the nature of spend but balanced with providing flexibility to amend details to achieve the outcome desired by members.

#### **V1 Virements**

V1.1 A virement is an individual movement between lines in the approved budget and is an essential feature of budgetary control, allowing Directors and Cost Centre managers to maintain their budgets with flexibility to react to the changing patterns of spend or unforeseen cost increases or income reductions.

V1.2 Virement limits and by whom the authorisation can be given are reviewed annually and are currently set as shown below and apply to capital and revenue:

- i. Up to and including £25,000 - by Directors who must inform Financial Services
- ii. Over £25,000 and up to £200,000 - by Directors, subject to prior consultation with the Section 151 Officer, the relevant Service Cabinet Member and the Cabinet Member with responsibility for finance
- iii. Over £200,000 and up to £1,000,000 - by Cabinet report

- iv. In excess of £1,000,000 – by Full Council
- v. Virements to allocate approved centrally held budgets to Services, can be undertaken by the Section 151 Officer.

## **SE1      Supplementary Estimate**

SE1.1      A supplementary estimate is a permission to increase or reduce the approved budget to fund additional expenditure. Approval for a supplementary estimate must be sought before the expenditure can be incurred.

SE1.2      Supplementary estimate limits and their authorisation levels are set as shown below and apply to capital and revenue:

- i. Up to and including £200,000 - by Directors, subject to prior consultation with the Section 151 Officer, the relevant Service Cabinet Member and the Cabinet Member with responsibility for finance
- ii. Over £200,000 and up to £1,000,000 - by Cabinet report
- iii. Over £1,000,000 - by Full Council



## APPENDIX 2

### List of Practice Notes

Practice Note 1 – Assets

Practice Note 2 – Fraud and Corruption

Practice Note 3 – Preparation of Budgets

Practice Note 4 – Purchase Ordering, Invoice Payments & Procurement Cards

Practice Note 5 – Budgetary Control

Practice Note 6 – Insurance and Risk Management

Practice Note 7 – Contracts, External Partners and Third party working

Practice Note 8 – Income Collection and Debt Management

Practice Note 9 – Project Appraisal Reviews

Practice Note 10 – Financial Arrangements for Partnerships

## PART 4.10

### CONTRACT PROCEDURE RULES

# **PROCUREMENT**

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CHELMSFORD CITY COUNCIL

Version dated Feb 2020

|        | Contents  | Page |
|--------|---|------|
| 4.10.1 | Introduction, Scope and Principles  |      |
| 4.10.2 | Definitions   |      |
| 4.10.3 | Key Considerations: <ul style="list-style-type: none"> <li>a) Estimating Contract Value</li> <li>b) Aggregation/ Disaggregation</li> <li>c) Procurement Thresholds <ul style="list-style-type: none"> <li>i. External Thresholds</li> <li>ii. Internal Thresholds</li> </ul> </li> <li>d) Strategic / Public Interest Considerations</li> </ul>                         |      |
| 4.10.4 | General Notes – Apply to all Procurement Processes <ul style="list-style-type: none"> <li>a) eProcurement</li> <li>b) Procurement Documentation &amp; Retention Thereof</li> <li>c) Responsible Procurement</li> <li>d) Terms and Conditions of Contract</li> <li>e) In-house Services</li> <li>f) Public to Public Tradingg Contract Award/ Value for Money</li> </ul> |      |
| 4.10.5 | Procurement Activity <ul style="list-style-type: none"> <li>a) Contracts up to £25,000</li> <li>b) Contract Value between £25,000 and £50,000</li> <li>c) Contract Value above £50,000 (and any strategic procurement) but below EU threshold</li> <li>d) Contract Value above EU Threshold</li> <li>e) Executive Decision/Key Decision</li> </ul>                      |      |
| 4.10.6 | Frameworks, DPS, eAuctions <ul style="list-style-type: none"> <li>a) External Agreements</li> <li>b) Internal Agreements</li> <li>c) Compliance Register</li> <li>d) Value Engineering &amp; Negotiation</li> </ul>   |      |
| 4.10.7 | Contract Management <ul style="list-style-type: none"> <li>a) Review and Monitoring</li> <li>b) Reg 84, Contracts Finder, OJEU Award Notices</li> <li>c) Contract Variations, Modification or Termination</li> <li>d) Extensions</li> </ul>   |      |

#### 4.10.1 Introduction, Scope and Principles

These Contract Procedure Rules are made under the provisions of section 135 of the Local Government Act 1972 and govern the making of contracts for and on behalf of the Council.

The purpose of these Rules is to provide clear guidance for the processes that result in the award of a contract for:

- Goods
- Services
- Works
- Concessions
- Public Sector to Public Sector Trading

These Rules look at the various methods and procurement routes the Council can employ in order to reach contract award. They are:

- Procurement Card
- Quotation
- Tender
- External/Internal Framework Agreement
- External/Internal DPS (Dynamic Purchasing System)
- eAuction

The Rules are intended to promote good purchasing practice, value for money, public accountability and deter bribery and corruption. They aim to ensure:

- True and fair competition for contracts
- Clear and auditable procedures
- Accountable and compliant process
- The Council to use its purchasing power for the benefit of the local economy, environment and community under its jurisdiction.

The provisions contained in these Rules are subject to the statutory requirements of both the European Union and United Kingdom Government. The letting and content of contracts shall conform to all statutory requirements relating to contracts and procurement.

#### 4.10.2 Definitions

|                                    |   |
|------------------------------------|---|
| Lead Procurement Officer           | Procurement Services Officer leading on the procurement process   |
| Council                            | Chelmsford City Council   |
| Directors                          | Service Directors are responsible for ensuring that officers within that directorate comply with the Contract Rules, Financial Rules and the Regulations*   |
| Procurement Services Manager       | Shall ensure that Council procurement is carried out with due diligence and in the spirit of true, fair and transparent competition, and that the Council meets its all its obligations under the Regulations*<br><i>Please see Procurement Manual for specific tasks.</i>  |
| Local Government Transparency Code | Requirements for local government to publish open data on spend of £500 and above   |
| Regulations*                       | The 'EU Procurement Rules' comprising: <ul style="list-style-type: none"> <li>• The Public Contracts Regulations 2015 (as amended) and/or Concession Contracts Regulations 2016 (as applicable) as supplemented by EU Directives on the procurement of Goods, Works, Services and Concessions.</li> <li>• The Council's Financial Rules</li> <li>• Public Services (Social Value) Act 2012</li> <li>• EU Exit Regulations 2019</li> </ul> |
| Legal Team                         | The Council's internal legal team OR external counsel   |
| Service Managers                   | Contract management responsibilities, and responsible for all service budget spend to be made in line with these rules.   |
| Goods                              | Supplies or materials   |
| OJEU                               | Office Journal of the European Union  |
| Threshold                          | The level of spend that dictates the rules or regulations that apply to a procurement   |
| Contract                           | Any form of contract, agreement for the supply of Goods, Works and/or, Services that the Council enters   |
| Contractor                         | Any person, partnership, company or any other organisation which provides or offers Goods, Works and/or Services to the Council   |
| Dynamic Purchasing System (DPS)    | A long running, completely electronic procurement tool used for commonly available works, services and goods. Qualifying contractors can join at any time and participate in mini competitions for contracts.   |
| Framework Agreement                | An agreement, with one or more contractor, that establishes the standard terms and conditions of supply over a fixed period of time with no pre-set volume information. <ul style="list-style-type: none"> <li>• Internal – setup by the Council for use by us and other specified public bodies</li> <li>• External – setup by another public body and accessible by the Council</li> </ul>  |
| LTR                                | Light Touch Regime – relates to procurements that are generally of low interest to cross border competition e.g. social, health and education services  |

|                          |   |
|--------------------------|---|
| The Procurement Manual   | This document is a Practice Note for day to day use by Council staff. The manual provides detailed guidance on procurement processes pursuant to the Public Contracts Regulations 2015, the Council's internal rules and its responsibilities and duties therein. The Manual should be referred to for all technical aspects of a procurement and further advice can be provided by Procurement Team. |
| The Procurement Strategy | This document details the aims and objectives of the Council's procurement activities including the social, environmental and economic impact of these activities.  |

### 4.10.3 Key Considerations

Before commencing any procurement using public money, officers must understand the following:

1. The contract value - this dictates which procurement routes can be used.
2. Strategic nature and public interest in the procurement -this influences which of the allowable routes is most appropriate.

#### *a. Estimating Contract Value*

The value of a contract is the total amount the Council expects to pay (or receive), net of VAT, over the length of the agreement, including any extension period or stated add-ons such as maintenance and support costs.

If the contract is for an uncertain or unfixed term, the value is the amount the Council expects to pay (or receive) over four years. This could be, for example, the monthly value multiplied by 48. If the contract is broken into lots, all lots must be factored into the total.

For Internal Framework Agreements / DPS, the value should be based on the level of anticipated spend from all parties with access.

#### *b. Aggregation/Disaggregation*

The Council is required to aggregate need whenever it is possible to do so. Aggregation groups together demand for commonly purchased goods and services to harness greater economies of scale and seek better value for money. Aggregation results in a single contract to manage as opposed to several smaller contracts.

Disaggregation, an offence under the Regulations, is the reverse; dividing up similar requirements into smaller contracts to remain below the relevant procurement threshold.

#### *c. Procurement Thresholds*

##### **i. External Thresholds**

The Regulations require a full tender process to be undertaken when the value of the contract exceeds a set level. The tender has to be advertised in OJEU and follow guidelines provided in the Regulations. These thresholds are set by the EU and reviewed every two years. There is threshold for each category of spend.

| Category         | Threshold (2018-19) | Example                             |
|------------------|---------------------|-------------------------------------|
| Works            | £4,733,252          | Constructions, repairs, maintenance |
| Goods / supplies | £189,330            | Stationery                          |
| Services         | £189,330            | Cleaning                            |

|                                  |   |                                |
|----------------------------------|---|--------------------------------|
| <b>Concessions</b>               | £4,733,252  | Bailiffs, catering             |
| <b>Light Touch Regime</b>        | £633,540  | Education e.g. Apprenticeships |
| <b>Land Lease &amp; Property</b> | Neither the procurement rules stated here, or the Procurement Regulations apply to contracts of this type |                                |

## ii. Internal Thresholds

Below the EU thresholds the Council has set its own spend limits. These limits provide guidelines for the method of procurement that should be used, and the associated authority needed to undertake it. The table below provides a broad outline with further detail provided in the Procurement Manual.

| Threshold  | Sub-threshold   | Notes   | Level of Authority Required                                |
|--|---|---|--|
| Up to £50,000                                      | Up to £1,000<br><br>£1,001 to £25,000<br><br>£25,001 to £50,000   | Please see the Procurement Manual for more detailed guidance  | Service Manager  |
| £50,001 to £189,330                                |   | Procurement team involvement is required<br>Route to Market Assessment to be carried out  | Senior Officer/<br>Service Manager and Procurement Manager |
| Spend over £189,330<br><i>Goods &amp; Services</i> |   | Falls under the Regulations, a full tender process is required<br>Procurement team involvement is mandatory to ensure compliance with Regulations<br>Route to Market Assessment to be carried out | Director and Procurement Manager                           |
| Spend over £100,000                                | Executive Decision may be required<br>Procurement team involvement required<br>Director sign off may be required for strategic purchases as determined by Procurement & Risk Services Manager |   |  |
| Spend over £200,000                                | Key Decision. Please see the relevant Constitutional practice notes   |   |  |



***e. Strategic / Public Interest Considerations***

Regardless of the contract value, Service Managers must consider the likely impact of the procurement on internal and external stakeholders. If the proposed activity is of a contentious nature, (perceived or actual) high risk, or relating to matters that affect public sensitivities, then advice should be taken from Procurement Team.

#### **4.10.4 General Notes – Apply to all Procurement Procedures**

##### ***a. eProcurement***

eProcurement is a requirement under the Regulations; all communication with potential contractors must be in electronic format. eProcurement provides a comprehensive and complete audit trail, enabling the Council to meet its accountability and compliance obligations.

Officers must remain mindful of commercial confidentiality and Data Protection legislation in all dealings with suppliers and external bodies.

##### ***b. Procurement Documentation & Retention Thereof***

The Procurement Team will work with Services to produce ITTs (Invitations to Tender) and RFPs (Requests for Proposals) for procurements above the EU threshold and of strategic importance.

OJEU procedures require a specific set of documents to be published as part of the tender pack.

The Legal Services Team will provide appropriate support and guidance as and when required in conjunction with Procurement Team.

Detailed document requirements are provided in the Procurement Manual and are in line with the Council's Document Retention Policy.

##### ***c. Responsible Procurement***

The Council is required to consider how a procurement project might improve the economic, social and environmental wellbeing across its area.

These outcomes are fully defined in the Procurement Strategy; please consult the Procurement Team for more information.

Procurements that may result in pollution, waste management issues, high energy use or have any other notable environmental impact should have relevant mitigating requirements built into the specification. Evaluation and scoring schemes should contain criteria that enable Council staff to fully consider and score these elements in each submission.

##### ***d. Terms and Conditions of Contract***

The Regulations must be adhered to when undertaking a procurement above the OJEU threshold.

All agreements must be in written English, price must be stated in British currency and subject to the jurisdiction of English Law.

British standards must be used where they are applicable to the subject of a contract.

Where the Procurement Team has undertaken a process on behalf of a Service Manager, the Lead Procurement Officer will take responsibility for instructing the Legal Team to prepare or approve the

terms and conditions of a contract if required. This applies whether the contract: was created by the Council; is based on the supplier's terms and conditions; or forms the basis of a call off agreement.

#### ***e. In-house Services***

Where the Council has an in-house service, external companies must not be used for these services unless the Service Manager responsible for the in-house service confirms specifically that they are unable to meet the requirements on that occasion.

#### ***f. Public to Public Trading***

If the Service Manager is considering entering into a contract with another public body, early advice must be sought from the Procurement Team. It should not be assumed that arrangements entered between the Council and other public bodies are outside the scope of the Regulations.

#### ***g. Contract Award / Value for Money***

The Council operates under the 'Duty of Best Value' which requires overall value, including economic, environmental and social value, to be considered when reviewing any service provision.

Social Value is a statutory duty of the Council for services over the OJEU threshold, however, these principles should be applied to all the Council's procurement activity. Social value considerations should be built in at the pre-procurement stage; consulting with local third sector representatives as and when deemed appropriate.

The Regulations require the Council to award public contracts on the basis of MEAT (Most Economically Advantageous Tender). This is not 'cheapest wins' but looks at cost alongside qualitative, environmental and social criteria. The balance of award criteria will be considered, on this basis, on a procurement by procurement basis.

Due Diligence checks are undertaken to review performance, reputation and financial stability of prospective suppliers, and can be part of the award criteria or used as a pass/fail criterion.

#### 4.10.5 Procurement Activity

##### ***a. Contracts up to £25,000***

The Service Manager is responsible for these procurements, but may access Procurement Team support as required. Quotations, frameworks and DPS are all possible procurement options.

If the procurement is strategic in nature, high risk, impacts on other services or has wider implications across the Council and/or the provision of its services, apply the guidance under section c.

##### ***b. Contract Value of between £25,000 - £50,000***

If the procurement is for non-critical, non-strategic goods, services or works the minimum requirement is for three quotations known as Request For Quotations (RFQs)

Frameworks, DPS can be used.

If the procurement is strategic in nature, high risk, impacts on other services or has wider implications across the Council and/or its service provision, apply the guidance under section C below.

##### ***c. Contract Value above £50,000 (and any strategic procurement) but below EU threshold***

Prior to undertaking any type of procurement exercise, the service must engage with the Procurement Team to seek advice on the best and most appropriate process to meet the identified need. This will result in a Route to Market Assessment being prepared.

For strategic level contracts a Business Case may also be required. This could involve all, or some, of the following actions/plans:

1. Needs assessment
2. Route to market assessment
3. Plan for stakeholder engagement
4. Market assessment
5. Risk assessment
6. Financial implications assessment
7. Social value assessment
8. Environmental and Ecological Impact assessment

The Business Case must be signed off by the Service Manager and Procurement Services Manager

The Procurement Manual provides detailed guidance regarding these topics as well as proforma documents.

Framework and DPS options will be investigated as part of the Route to Market Assessment.

If the expected contract value is below the EU threshold by 10% or less please speak to the Procurement Team before taking any further action.

***d. Contract Value above EU Threshold***

A full OJEU tender process is required. This process must only be undertaken with the full involvement of the Procurement Team.

Please be aware that a full OJEU process takes around 12 weeks to complete. Please ensure you advise the Procurement Team of your plans in a timely manner to enable a schedule to be put in place.

Framework and DPS options will be investigated as part of the Route to Market Assessment which will require approval by the Procurement Services Manager and Management Team.

***e. Executive Decision / Key Decision***

An Executive Decision is taken by the Leader, the Cabinet or delegated to a committee of the Cabinet, a Cabinet member or an officer, and is publicly notifiable 28 days prior to being taken. A key decision has expenditure of above £200k or 20% or more of relevant expenditure. Full details see Part 2 Articles of the Constitution. Please refer to the Council's Monitoring Officer for how this may impact on your procurement.

#### **4.10.6 Frameworks, DPS, eAuctions**

##### ***a. External Agreements***

The Council is eligible to use a wide range of Frameworks and DPS created by other public sector bodies. The Procurement Lead must ensure that the Council is lawfully able to use the Framework or DPS; the Procurement Team can provide advice and assistance on use. They must also establish that there is a clear benefit to the Council of using a Framework or DPS over other procurement options.

For procurements exceeding £100k or those of a particularly strategic nature, a Route to Market Assessment must be undertaken.

The Framework or DPS rules must be adhered to at all times.

Where the use of a Framework/DPS is subject to signing an Access Agreement, this document should be authorised by the Procurement Services Manager.

The Procurement Team must be advised of any contracts entered into via a Framework Agreement, regardless of value.

##### ***b. Internal Agreements***

The Council can create its own Framework, DPS or eAuction, using its eProcurement software where it is in the Council's best interests to do so.

Use of the Framework/DPS will be mandatory across the Council for all goods, services and works that have been included in the scope of the arrangements.

Should the supply be of a significantly higher than normal value, the Procurement Manager should be consulted to establish if new rates should be sought, or an alternative procurement method used.

Frameworks can only be created with the agreement of the Procurement Manager.

##### ***c. Compliance Register***

A compliance register entry can be used in some specific circumstances to waive the requirements of the Contract Procedure Rules. Full details of the specific circumstances are set out in the Procurement Manual. The compliance register waiver cannot be used for Procurements above the EU Thresholds.

##### ***d. Value Engineering & Negotiation***

The Public Contract Regulations 2015 (PCRs) allow, in some circumstances, a tender process to be switched to a negotiated procedure. Please see the Procurement Manual for detail of a negotiated procedure. This can only be used where the nature of the original competition is not substantially altered and does not artificially restrict competition.

#### **4.10.7 Contracts**

##### ***a. Review and Monitoring***

During contract preparation the Service Manager should appoint a Contract Manager (who may be mentioned in the contract itself) to monitor the Supplier's performance.

Further guidance regarding the management of contracts is covered in the Procurement Manual.

Details of the contract shall be stored centrally. The Procurement Team will maintain this information for key contracts

##### ***b. Reg 84, Contracts Finder, OJEU Award Notices***

The Procurement Team will produce and publish information regarding contract award on all platforms required by the Regulations. In addition, the team will provide a post procurement report, if required by the Regulations or, by the service if not required by the regulations or if high risk procurement.

##### ***c. Contract Variation, Modification or Termination***

During the term of a contract modifications may be proposed, which, if adopted, would result in additional works, goods or services. There are significant limitations upon the Council's ability to make such modifications, especially when the Regulations apply. There are tolerances allowed within contract variations under Reg 72.

Before discussing any variation or modification with the Supplier, the Service Manager must seek advice from the Procurement and Legal Teams.

##### ***d. Extensions***

If an extension period is clearly stated in the contract, the option is available to extend. Before exercising a contractual right to extend the Service/Contract Manager must consider whether it is in the best interests of the Council to continue with the contract by examining performance to date and any changes in cost both under the terms of the contract and also in the wider market. variations.

Any extension will require the agreement of both parties. Please contact the Procurement Services Manager for further advice.

PART 4.11

BUDGET AND POLICY FRAMEWORK

PROCEDURE RULES



| <b>Rule</b>  | <b>Rule No.</b> | <b>Page No.</b> |
|--|-----------------|-----------------|
| Responsibility for the Budget and Policy Framework | 4.11.1          | 1               |
| Process for Developing the Framework               | 4.11.2          | 1-2             |

*In this Rule of Procedure “policy” means a plan or strategy forming part of the Council’s policy framework and “budget” means*

- (i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of Sections 32 to 37 of the Local Government Finance Act 1992;*
- (ii) estimates of other amounts to be used for the purposes of such a calculation;*
- (iii) estimates of such a calculation.*

#### **4.11.1 RESPONSIBILITY FOR THE BUDGET AND POLICY FRAMEWORK**

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

#### **4.11.2 PROCESS FOR DEVELOPING THE FRAMEWORK**

4.11.2.1 The budget and policy framework shall be developed in the following way:

- (a) Depending on the arrangements provided for in the Scheme of Executive Delegation, the intention of the Leader or the Cabinet to make proposals to the Council in relation to the budget or a policy, plan or strategy within the policy framework will be included in the relevant Executive Decisions Notice.
- (b) Where consultation is carried out on any proposals for the budget and policy framework, the timing of that consultation, the means by which responses to it may be made and to whom, shall be publicised.
- (c) The Leader/Cabinet will consider the responses to any consultation before making firm recommendations to the Council.
- (d) Where the Council objects to a budget or a policy submitted to it by the Leader/Cabinet, the designated officer shall ensure that the Leader of the Council is aware of its objections.

*Exception:* This procedure shall not apply to a budget considered by the Council after 8<sup>th</sup> February in any year.

- (e) The arrangements for the Leader or the meeting of the Cabinet to consider the objections, and of the Council to consider the response of either, may be decided at the Council meeting at which the objections were raised.

- (f) No sooner than five days and no later than two weeks after the Leader has been notified of the objection of the Council, the Leader shall consider, or the Cabinet shall meet to consider, the objection and may either
- amend the policy or budget and submit it to the Council with an explanation for the amendment; or
  - inform the Council that it disagrees with its objection and its reasons for doing so.

*Exception:* The Leader may waive the minimum period of five days if they believe that the matter to which the Council has objected is urgent or can be considered adequately by them or the Cabinet within a lesser period.

- (g) Once the response of the Leader/Cabinet has been decided, the Council shall meet to consider the policy or budget again. It shall take into account
- any changes proposed by the Leader/Cabinet and the reasons for them
  - any explanation the Leader/Cabinet has given for not changing the policy or budget
  - any other views the Leader/Cabinet has on the original or revised policy or budget or on the Council's objection to the original.

If the Leader has not considered, or the Cabinet has not met to respond to, the objection, the Council shall meet within a reasonable period to consider again the original policy or budget.

- (h) In deciding whether to amend or approve the original or revised policy or budget the Council shall take into account any response of the Leader/Cabinet.

4.11.2.2 The procedure in (d) to (h) above shall not apply to calculations or substitute calculations which the Council may be required to make under sections 52I, 52T and 52U of the 1992 Act.

4.11.2.3 In approving the budget and policy framework the Council may specify the extent of virement within the budget and the degree of in-year changes to the policy framework which may be undertaken by the Leader/Cabinet. Any other changes to the budget and policy framework are reserved to the Council.

## PART 5.1

### CONDUCT OF COUNCILLORS

#### CODE AND PROCEDURES

## **CONTENTS**

### **Part 5.1                    Conduct of Councillors- Code and Procedures**

#### **Part 5.1.1                Conduct Of Councillors**

#### **Part 5.1.2                Code of Conduct Complaints**

- a)        annex 1- Disclosable interests
- b)        annex 2- Procedure flowchart
- c)        annex 3- Complaints assessment criteria
- d)        annex 4- Investigative procedure
- e)        annex 5- Governance Committee
- f)        annex 6- Arrangements for dealing with Standards Committees
- g)        annex 7 – Gifts and hospitality

#### **Part 5.1.3                Authority and Process for creating Dispensations**

#### **Part 5.1.4                General Dispensations**



## PART 5.1.1

### Councillor Code of Conduct

(the Model Code produced by the Local Government Association)

#### Introduction

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 behaviours 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.

#### 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/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute. You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## 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 authority or authorising their use by others:**

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

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

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

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

## 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 Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest.

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the

meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

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

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

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

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

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

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

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

[10. Where you have an Other Registerable Interest or Non-Registerable 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   |
|--|---|
| <b>Employment, office, trade, profession or vocation</b> | Any employment, office, trade, profession or vocation carried on for profit or gain.  |
| <b>Sponsorship</b>                                       | <p>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.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>  |
| <b>Contracts</b>   | <p>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 -</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p> |
| <b>Land and Property</b>                                 | <p>Any beneficial interest in land which is within the area of the council.</p> <p>'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.</p>  |
| <b>Licences</b>  | Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer  |
| <b>Corporate tenancies</b>                               | <p>Any tenancy where (to the councillor's knowledge) -</p> <p>(a) the landlord is the council; and</p> <p>(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</p>  |



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

You must register as an Other Registerable Interest:

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

## Appendix C – The Committee on Standards in Public Life

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.

## PART 5.1.2

# COMPLAINTS PROCEDURE

## **Context**

- 1.1 These “Arrangements” set out how a complaint can be made about an elected or co-opted councillor of the City Council or of a Parish tier Council within its area (“a Councillor”) who you believe has failed to comply with the Councillors’ Code of Conduct, and sets out how the City Council will deal with allegations of a failure to do so.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the City Council must have in place “arrangements” under which allegations that a Councillor or co-opted member of the City Council or of a Parish tier Council within the authority’s area, or of a Committee or Sub-Committee of the City or Parish tier Council, has failed to comply with Code of Conduct can be investigated and decisions made on such allegations. It is important to note that the Monitoring Officer does not have jurisdiction to intervene in decisions made or other complaints in relation to parish tier council business. This procedure relates solely to allegations against an identified Councillor specifying any potential breach(es) of the relevant Council's Code of Conduct.
- 1.3 References in this procedure to Monitoring Officer includes the officer appointed as Monitoring Officer as well as the Deputy Monitoring Officer or officer designated by them to carry out their functions as Monitoring Officer.
- 1.4 Such arrangements are designed to be open and fair to all parties and enable both complainant and councillor concerned to have confidence in the process. The arrangements must also provide for the City Council to appoint at least 1 Independent Person, whose views must be sought by it before it takes a decision on an allegation which it has decided shall be investigated and at any other stage of the procedure, or by a Councillor or co-opted councillor of the City Council or a Parish tier Council within its area against whom an allegation has been made.

## **2. The Code of Conduct**

- 2.1 The City Council has adopted the Local Government Association (LGA) Model Code of Conduct for Councillors, which is available for inspection on the Council or LGA website and upon reasonable notice from Reception at the Council Offices.
- 2.2 The City Council has recommended that each Parish tier Council also adopts the LGA Model Code of Conduct. Those that have already done so will have the same Code of Conduct as the Council. If you wish to establish which Code of Conduct has been adopted or inspect a Parish tier Council’s Code of Conduct, this should be available on the website operated by the relevant Council or alternatively you can contact the relevant Clerk to tell you how else you can obtain a copy or inspect it.

## **3. Making a complaint**

- 3.1 If you wish to make a complaint alleging that a councillor has breached the Code of Conduct, the quickest and simplest way for you to do so is to complete and submit the complaints form through the City Council's website. If you are unable to do so please contact the City Council's Monitoring Officer for further information on alternative ways in which you can submit your complaint.
- 3.2 The Monitoring Officer is a senior officer of the City Council who has statutory responsibility for maintaining the register of interests and who is responsible for administering the system in respect of complaints of city and parish tier councillor misconduct.
- 3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please provide as much detail as possible and respond promptly/within specified timeframes to any requests by the Monitoring Officer for further information
- 3.4 You will be asked to provide your name and a contact address or email address, so that receipt of your complaint can be acknowledged and you can be kept informed of its progress. A complainant is usually expected to be willing for their identity to be provided to the councillor concerned. However, if there are good grounds to keep your name and address confidential, please indicate this in the space provided on the complaint form together with why this is requested. The Monitoring Officer will consider your request and if granted will not disclose your name and address to the Councillor against whom you make the complaint, without your prior consent.
- 3.5 The City Council does not normally investigate anonymous complaints unless there is a clear public interest in doing so.
- 3.6 Complainants are expected to say whether they are a member of the public, fellow councillor or officer, what the complaint is about and the authority that the councillor belongs to, details of the alleged misconduct including the specific paragraph of the code of conduct which is alleged to have been breached together with dates, witness details and other supporting information.
- 3.7 The Monitoring Officer will check that your complaint is valid. This involves checking that the complaint falls within the City Council's legal jurisdiction eg it relates to an alleged breach of the code of conduct by a serving councillor. You will be contacted as soon as practicable should an issue concerning validity arise.
- 3.8 The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, explain the process that will be followed and will keep you informed of the progress of your complaint. Please note that emails may be sent to you from a group email address which is [standards@chelmsford.gov.uk](mailto:standards@chelmsford.gov.uk).

- 3.9 The Councillor subject to a complaint will usually be informed of the detail of the complaint submitted at the same time as your complaint is acknowledged. The councillor subject to the complaint will also normally be given an opportunity to voluntarily respond to the complaint at that stage. However they are under no obligation to do so. Any information that is provided by the councillor may be taken into account at any stage of the complaint including initial assessment of the complaint, where information provided is considered relevant.
- 3.10 The Complaints Procedure Flowchart is annexed at **Annex 2** for your assistance.

#### **4. Initial assessment of a complaint**

- 4.1 The Monitoring Officer will review every complaint received and, will usually consult with the Independent Person. The City Council may reach one of the three decisions on an allegation that:
- 4.1.1 No further action should be taken in relation to the allegation
  - 4.1.2 “Other” action or informal resolution should be undertaken (eg apology, training, mediation)
  - 4.1.3 The matter should be referred for investigation (the Independent Person will always be consulted before a decision to investigate is taken)
- 4.2 This decision will normally be taken within 28 working days of receipt of your complaint. Your complaint will be considered in accordance with the publicly available Assessment Criteria which can be found at **Annex 3**.
- 4.2.1 Where the Monitoring Officer has taken a decision, they will inform you of their decision and the reasons for that decision.

- 4.2.2 Where the Monitoring Officer requires additional information in order to come to a decision, we may come back to you for such information, and may request information from the Councillor against whom your complaint is directed.
  - 4.2.3 Where your complaint relates to a Parish tier Councillor, the Monitoring Officer may also inform the relevant clerk to the parish tier Council of your complaint and seek their views before deciding what to do.
- 4.3 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Councillor accepting that their conduct was unacceptable and offering an apology, or other action agreed by the City Council. Where the Councillor or the City Council makes a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.
- 4.4 If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to contact the Police or other regulatory agencies and will confirm to you that this has been done. The complainant will be notified that this contact has been made where appropriate.
- 4.5 Whatever the outcome of initial assessment of a complaint (including where a matter is referred for investigation or other action), it does not mean that a decision has been made concerning the merits of the complaint. It simply means that the City Council believes the alleged conduct, if proven, may or may not amount to a failure to comply with the Code of Conduct and as to whether some action should be taken in response to the complaint.

## **5. How is an investigation conducted?**

- 5.1 If after consultation with an independent person the Monitoring Officer decides that a complaint merits further investigation, they may appoint an Investigating Officer, who may be another senior officer of the City Council, an officer of another authority or an external investigator. The Investigating Officer or Monitoring Officer will decide whether they need to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen, and who needs to be interviewed.
- 5.2 The Investigating Officer or Monitoring Officer will normally write to the Councillor against whom you have complained and ask the member to provide their explanation of events, and to identify what documents they need to see and who needs to be interviewed. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member



might prejudice the investigation, your details can be withheld or notification delayed until the investigation has progressed sufficiently.

- 5.3 At the end of the investigation, the Investigating Officer will produce a draft report (“the Investigation Report”) and will send copies of that draft report, in confidence, to the Monitoring Officer. This enables the Monitoring Officer to identify any issues that require further consideration or investigation.
- 5.4 The Investigating Officer will then send to you and to the Councillor concerned a copy of the draft report, to also give you both an opportunity to identify any corrections or inaccuracies in that draft report that you consider require further consideration.
- 5.5 The Investigating Officer will consider any representations made by the parties before issuing their final report which will be sent to the Monitoring Officer. This is summarised in **Annex 4**.

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

- 6.1 The Monitoring Officer will review the Investigation Report and, if after consulting with the Independent Person, they are satisfied that the report is sufficient, the Monitoring Officer will write to you and to the Councillor concerned, as well as any relevant Parish tier Council, notifying you that they are satisfied that no further action is required. A copy of the report will be provided in confidence to the parties.

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

- 7.1 The Monitoring Officer will review the Investigation report and will then either send the matter for a hearing before the Governance Committee or, after consulting the Independent Person, seek an informal resolution.

**7.1.1 Informal Resolution**

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, they will consult with the Independent Person before any decision as to an alternative resolution is made. Such resolution may include the Councillor accepting that their conduct was unacceptable and offering an apology, and/or other action recommended by the Investigator or considered appropriate by the Monitoring Officer in consultation with the Independent Person. If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Governance Committee, and where appropriate the Parish tier Council, for information, but will take no further action.

### 7.1.2 Hearing

i) If the Monitoring Officer considers that informal resolution is not appropriate, or the Councillor concerned is not prepared to undertake any other proposed action that has been recommended, such as giving an apology, then the Monitoring Officer will convene a meeting of the Governance Committee to consider the Investigation Report.

ii) The Committee may conduct a hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Councillor.

iii) The Council has agreed a procedure for hearing complaints, which is attached as **Annex 5** to these arrangements.

iv) At the hearing-

- The Investigating Officer will present their report and make representations to substantiate their conclusion that the councillor has failed to comply with the Code of Conduct. Witnesses of fact will only be called where the facts are in dispute and live evidence from witnesses is necessary to enable the Governance Committee to reach a decision.
- The Investigating Officer or Monitoring Officer may ask you as the complainant and/or any witnesses to attend and give evidence to the Committee.
- The Councillor will then have an opportunity to give evidence to make representations to the Committee as to why they consider that they did not fail to comply with the Code of Conduct. Witnesses of fact will only be called where the facts are in dispute and live evidence from the councillor or other witnesses are necessary to enable the Governance Committee to reach a decision.

v) The Committee, with the benefit of any advice from the Independent Person, may either conclude that the Councillor -

- Did not fail to comply with the Code of Conduct, and dismiss the complaint; or
- Did fail to comply with the Code of Conduct, in which case the Chair will inform the Councillor of this finding and the Committee will then consider what action, if any, the Committee should take as a result of the Councillor's failure to comply with the Code of Conduct. In doing this, the Committee will give the Councillor an

opportunity to make representations to the Committee and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

**8. What action can the Governance Committee take where a councillor has failed to comply with the Code of Conduct?<sup>1</sup>**

8.1 The City Council has delegated to the Committee such of its powers to take action in respect of individual City or Parish tier Councillors as may be necessary to promote and maintain high standards of conduct. Accordingly the Committee may:-

- 8.1.1 Publish its findings in respect of the Councillor's conduct.
- 8.1.2 Report its findings to Council or relevant Parish tier Council for information.
- 8.1.3 Recommend to Council or the relevant Parish tier Council that they be issued with a formal censure or be reprimanded.
- 8.1.4 Recommend to the Councillor's Group Leader (or in the case of ungrouped councillor, recommend to Council or to Committees) that they are removed from any or all Committees or Sub-Committees of the Council.
- 8.1.5 Recommend to the Leader of the Council that the Councillor is removed from the Cabinet, or removed from particular Portfolio responsibilities.
- 8.1.6 Instruct the Monitoring Officer or recommend that the relevant Parish tier Council arrange training for the Councillor.
- 8.1.7 Remove or recommend to the relevant Parish tier Council that the Councillor be removed from all outside appointments to which they have been appointed or nominated by that authority.
- 8.1.8 Withdraw or recommend to the relevant Parish tier Council that it withdraws facilities provided to the Councillor by the Council, such as a computer, website and/or email and internet access; or
- 8.1.9 Exclude or recommend to the relevant Parish tier Council that it excludes the Councillor from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 8.1.10 The Committee has no power to suspend or disqualify the Councillor or to withdraw the payment of any allowances payable to them.

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**9. What happens at the end of the hearing?**

9.1 At the end of the hearing, the Chair will state the decision of the Governance Committee as to whether the Councillor failed to comply with the Code of Conduct and as to any actions or sanctions the Committee has decided to impose or recommend.

9.2 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Committee, and

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9.2.1 Send a copy to you, to the Councillor concerned and update any relevant Parish tier Council as to the outcome,

9.2.2 Make that decision notice available for public inspection and on the Council's website

**10. What is the Governance Committee?**

10.1 It is a Committee consisting of Councillors, the terms of reference of which include the management of the Standards regime under the Localism Act 2011.

10.2 The Committee has decided that it will comprise a maximum of seven Councillors of the Council, including not more than two members of the City Council's Executive and comprising members drawn from other political parties, as well as representatives from the Parish tier Councils. Subject to those requirements, it is appointed on the nomination of the City Council party group leaders in proportion to the strengths of each party group on the City Council.

10.3 If the Councillor complained about is a member of a Parish tier Council a Parish tier Council representative of the Governance Committee will also be invited to attend.

10.4 The Independent Person(s) are invited to attend all meetings of the Committee and their views are sought and taken into consideration before the Committee takes any decision on whether the Councillor'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 it.

## **11. Who is an Independent Person?**

11.1 The 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.

11.2 A person cannot be “independent” if they :

11.2.1 Are, or have been within the past 5 years a member, co-opted member or officer of the City or Parish tier Council. Are a relative or close friend, of a person within this paragraph. For this purpose, a “relative” means:

- i) Spouse or civil partner.
- ii) Living with the other person as husband and wife or as if they were civil partners.
- iii) Grandparent of the other person.
- iv) A lineal descendent of a grandparent of the other person.
- v) A parent, sibling or child of a person within this paragraph ; or
- vi) A spouse or civil partner of a person within this paragraph ; or
- vii) Living with a person within this paragraph as spouses or as if they were civil partners.

## **12. Revision of these arrangements**

12.1 The Council may agree to amend these arrangements, and has delegated to the Chair of the Committee and/or the Monitoring Officer the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **13. Appeals**

13.1 There is no right of appeal for you as complainant or for the Councillor against a decision of the Monitoring Officer or of the 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 Ombudsman at [www.lgo.org.uk/making-a-complaint](http://www.lgo.org.uk/making-a-complaint)

## Part 5.1.2 ANNEX 1

### DISCLOSABLE PECUNIARY

### INTERESTS

The duties to register, disclose and not participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable Pecuniary Interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows:

| Interest  | Prescribed 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 other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. 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 which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority: <ul style="list-style-type: none"> <li>(a) under which goods or services are to be provided or works are to be executed; and</li> <li>(b) which has not been fully discharged.</li> </ul>   |
| Land  | Any beneficial interest in land which is within the area of the relevant authority.   |
| Licences  | Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.  |
| Corporate tenancies                               | Any tenancy where (to M's knowledge): <ul style="list-style-type: none"> <li>(a) the landlord is the relevant authority; and</li> <li>(b) the tenant is a body in which the relevant person has a beneficial interest.</li> </ul>   |
| Securities  | Any beneficial interest in securities of a body were: <ul style="list-style-type: none"> <li>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</li> </ul>   |



|  |  |
|--|--|
|  | <p>(b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p> |
|--|--|

For this purpose:

**“the Act”** means the Localism Act 2011;

**“body in which the relevant person has a beneficial interest”** means a firm in which the relevant person is a partner or a corporate body of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

**“director”** includes a member of the committee of management of an industrial provident society;

**“land”** excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive an income;

**“M”** means a member of the relevant authority;

**“member”** includes a co-opted member;

**“relevant authority”** means the authority of which M is a member;

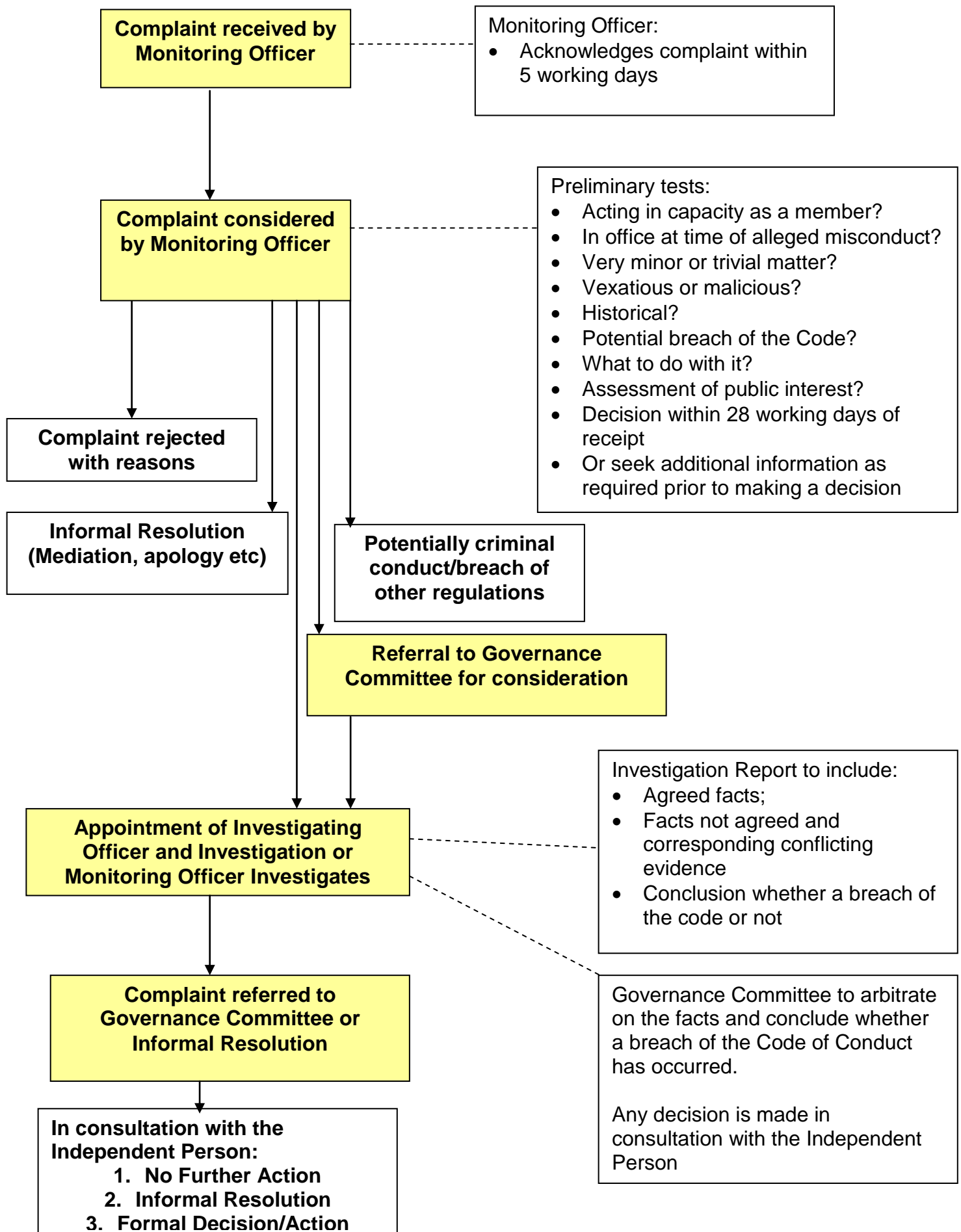
**“relevant period”** means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or 31(7), as the case may be, of the Act;

**“relevant person”** means M or any other person referred to in section 30(3)(b) of the Act;

**“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.

# PART 5.1.2 Annex 2

## Complaints Procedure Flowchart



## PART 5.1.2 ANNEX 3

### COMPLAINTS ASSESSMENT CRITERIA

**Complaints will not normally be referred for investigation where-**

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

**A Complaint may be referred for investigation or to the Governance Committee where-**

1. It is serious enough, if proven, to justify the range of actions available to the Governance Committee; or
2. There are individual acts of minor misconduct which appear to be a 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. It would be difficult or inappropriate for the Monitoring Officer to investigate the complaint for example-
  - 3.1 The complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer; or
  - 3.2 The complaint is about a high profile Member such as the Leader of the Council; or
4. Such other complaints as the Monitoring Officer considers it would not be appropriate for him/her to investigate.

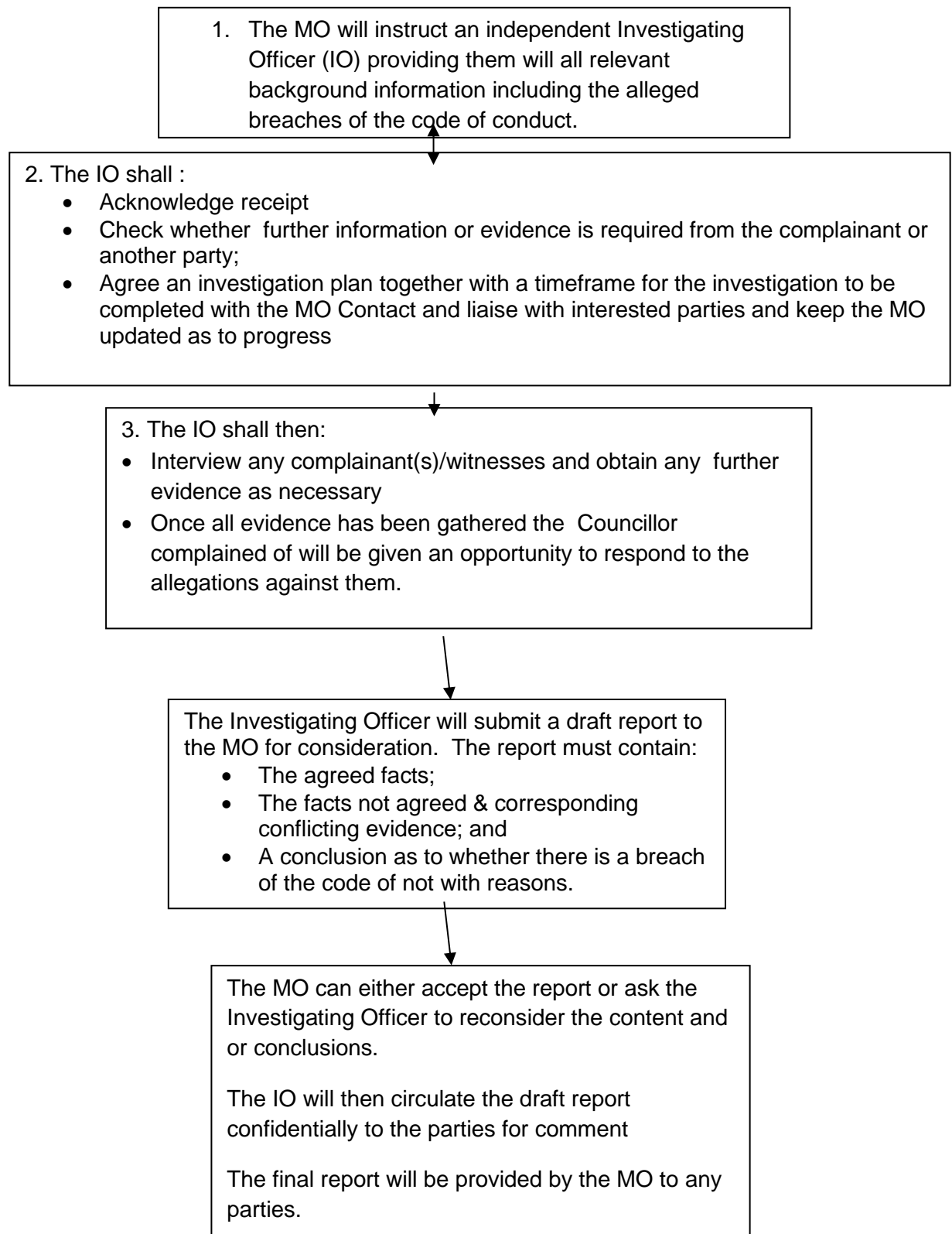
**Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and members' time. This is an important consideration where the complaint is relatively minor.**

## PART 5.1.2 ANNEX 4

### INVESTIGATION PROCEDURE

This procedure sets out the actions, roles and responsibilities of the Investigating Officer and Monitoring Officer when undertaking an investigation into a complaint under the Code of Conduct for Councillors.

More detailed information in relation to the investigation process is set out in the standards complaints procedure



## PART 5.1.2 ANNEX 5

### GOVERNANCE COMMITTEE HEARING

#### PROCEDURE



| <u>ITEM<br/>NO.</u> | <u>PROCEDURE</u>  | <u>NOTES</u> |
|---------------------|---|--------------|
| 1.                  | <p><b><u>Quorum</u></b></p> <p>1.1 Three voting members must be present throughout the hearing to form a quorum.</p> <p>1.2 Where the complaint refers to a Parish Tier Councillor a co-opted Parish Tier Councillor of the Governance Committee should be present.</p> <p>1.3 The Governance Committee shall nominate a Chair for the meeting, where neither the Chair nor Vice Chair of the Committee are in attendance.</p>  |              |
| 2.                  | <p><b><u>Opening</u></b></p> <p>The Chair will-</p> <p>2.1 Explain the procedure for the hearing and remind all parties to turn off mobile phones, audible alarms and pagers, or other equipment that either is capable of recording the meeting or interrupting proceedings.</p> <p>2.2 Ask all present to introduce themselves.</p> <p>2.3 Ask the Councillor against whom the complaint has been made ("the subject Councillor"), or their representative, whether they wish to briefly outline the subject Councillor's position.</p> |              |

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|----|--|--|
| 3. | <p><b><u>The Complaint and Investigator's Findings</u></b></p> <p>3.1 The Investigating Officer will be invited to present their report, including any documentary evidence or other material, and to call any witnesses they require.</p> <p>3.2 The subject Councillor, or their representative, may question the Investigating Officer upon the content of their report and any witnesses that have been called about the evidence they have provided.</p> <p>3.3 Members of the Committee may question the Investigating Officer on the content of their report and comments made to the Committee as well as any witnesses present.</p> | <p>3.1.1 The report and other information referred to must be based on the complaint made to the Council and no new points will be allowed.</p> <p>3.2.1 This is the subject Councillor's opportunity to ask questions arising from the Investigator's report only and not to make a statement</p> |
| 4. | <p><b><u>The Councillor's Case</u></b></p> <p>4.1 The Subject Councillor or their representative may present their case and call any witnesses in support.</p> <p>4.2 The Investigating Officer may question the subject Councillor or witnesses.</p> <p>4.3 Members of the Committee may question the Subject Member or witnesses.</p>  | <p>4.1.1 Only evidence related to the information in the Investigator's Report will be allowed, not new evidence or issues.</p>  |
| 5. | <p><b><u>Summing Up</u></b></p> <p>5.1 The Investigator may sum up the Complaint.</p> <p>5.2 The Member or their representative may sum up their case.</p>   |  |
| 6. | <p><b><u>The Decision</u></b></p> <p>6.1 The Committee will leave the room to consider the case presented in consultation with the Independent Person,</p>   | <p>6.1.1 This will include voting and non-voting co-opted members of the Committee</p>   |

|  |   |  |
|--|---|--|
|  | <p>if present, and may request the Monitoring Officer or other legal advisor to the Committee to accompany them.</p> <p>6.2 On the Committee's return the Chair will announce the Committee's decision, namely that either-</p> <ul style="list-style-type: none"> <li>• The Committee decides that the subject Councillor <b>has</b> failed to follow the Code of Conduct; or</li> <li>• The Committee decides that the subject Councillor <b>has not</b> failed to follow the Code of Conduct; and</li> <li>• The Committee will give reasons for its decision.</li> </ul> <p>6.3 If the Committee decides that the subject Councillor has failed to follow the Code of Conduct, it will then hear from the Investigator and the subject Councillor or their representative as to-</p> <ul style="list-style-type: none"> <li>• Whether any action should be taken in relation to the subject Councillor, and if so</li> <li>• What form that action should take; and</li> <li>• Whether any recommendations should be made to the Council, or where appropriate the Parish or Town Council, with a view to promoting high standards of conduct amongst Councillors.</li> </ul> <p>6.4 The Committee will leave the room to consider these representations and to decide what if any action should be taken, in consultation with the Independent Person, if present, and may request the Monitoring Officer or other legal advisor to the Committee to accompany them.</p> <p>6.5 On the Committee's return the Chair will announce the Committee's decision.</p> <p>6.6 The Chair will confirm that a full written decision shall be issued within 10 working days following the hearing and that the Committee's findings will be published as</p> | <p>6.4.1 &amp; 6.5.1 Where the subject Councillor is a Parish Tier Councillor the Committee can only make recommendations to the Parish Tier Council as to the action that it feels appropriate.</p> <p>6.6.1 This will include the publication of a decision on the Council's website and</p> <p>6.6.2 A copy will be sent to</p> |
|--|---|--|

|  |              |  |
|--|--------------|--|
|  | appropriate. | the subject Councillor, complainant(s) and where appropriate the relevant Parish Tier Council. |
|--|--------------|--|

## PART 5.1.2 ANNEX 6

# ARRANGEMENTS FOR DEALING WITH STANDARDS COMPLAINTS

## **Principles for the introduction of “Arrangements” for dealing with Standards Complaints**

1. That the Monitoring Officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. In exceptional cases where there is a history of previous complaints by complainant(s) or complaints against any particular councillor(s), the Monitoring Officer is empowered to determine that no further action or appropriate “other action” should be taken without notifying the councillor subject to a complaint that a complaint has been received and/or not consulting the independent person in reaching the initial assessment decision.
2. The Monitoring Officer is instructed to seek resolution of complaints without formal investigation wherever practicable, and
  - has full discretion to refer decisions on investigation to the Governance Committee where it is inappropriate for her to take the decision, and
  - will report quarterly to the Governance Committee on the discharge of this function.
3. Where the investigation finds no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer is instructed to close the matter, provided a copy of the report and findings of any investigation has been sent to
  - the complainant
  - the member concerned
4. Where the investigation finds evidence of a failure to comply with the Code of Conduct -
  - the Monitoring Officer, in consultation with the Independent Person, is authorised to seek a resolution in appropriate cases provided a summary report is made to the Governance Committee for information; or
  - where such resolution is not appropriate or not possible, she is to report the investigation findings to the Governance Committee for a hearing.
5. The Council shall delegate to the Committee such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include:
  - Reporting its findings to Council (*or to the Parish tier Council*) for information;
  - Recommending to Council that the member be issued with a formal censure or reprimand (*or to the Parish tier Council*);

- Recommending to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council;
- Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Instructing the Monitoring Officer to *(or recommend that the Parish tier Council)* arrange training for the member;
- Recommending to the Council that they be removed *(or recommend to the Parish tier Council that the member be removed)* from all outside appointments to which they have been appointed or nominated by the authority *(or by the Parish tier Council)*;
- Withdrawing *(or recommend to the Parish tier Council that it withdraws)* facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or
- Excluding *(or recommend that the Parish tier 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.

PART 5.1.2 ANNEX 7

GIFTS AND HOSPITALITY GUIDANCE

LEAFLET



## **A Guide to**

## **Gifts and Hospitality**

### **Gifts and hospitality – what do I have to do?**

- You must register any gifts or hospitality worth £50 or over.
- You must also register the donor (for example, the person, company or body) of the gift or hospitality.
- You only have to register gifts that you receive in connection with your official duties as a member. You do not have to

register other gifts and hospitality, such as birthday gifts from family.

- Ask yourself “Have I been given this because I am a member?” If the answer is “yes” then you must register the item.
- You should register an accumulation of small gifts you receive from the same donor over a short period that add up to £50 or more.
- You must register the gift or hospitality and its donor within 28 days of receiving it, and if an accumulation, when it gets to £50.

### **What happens if I do not know the value of the gift?**

It is suggested you register it anyway as a matter of good practice.

### **Do I have to register gifts or hospitality I do not accept?**

This will depend upon the circumstances. Para 10.3 of the model Code of Conduct requires that any significant gift or hospitality which has been offered and is declined should be registered. The LGA has produced helpful guidance to the model code including information in relation to gifts and hospitality.

### **What does “hospitality” mean under the Code?**

Hospitality can be defined as any food, drink, accommodation or entertainment provided free of charge or heavily discounted.

### **Do I have to register the interests of the donor of the gifts or hospitality?**

No. The Code only requires you to register the gift or hospitality worth £50 or over, received in connection with your official

duties, and the donor of that gift or hospitality.

### **What about official gifts or hospitality given to the Civic Mayor or Leader of the Council?**

- There are no special rules for those who serve as Mayor or Leader of the Council.
- Gifts that are clearly made to the authority do not need to be registered.
- Gifts made directly to a Mayor's charity appeal do not need to be registered.

**For further information please either contact Lorraine Browne, Monitoring Officer on 01245 606560 or visit the website: [chelmsford.gov.uk/councillor-financial-interests](http://chelmsford.gov.uk/councillor-financial-interests)**

# PART 5.1.3

## AUTHORITY AND PROCESS FOR DISPENSATIONS

# Guidance and Application in relation to dispensations for City Councillors

## Dispensation process and application form

### 1. Introduction – City Council dispensations

The City Council Governance Committee or the Monitoring Officer is responsible for determining dispensations under Section 33(2) of the Localism Act 2011 in relation to City Councillors. This guidance explains :-

The purpose and effect of dispensations

The procedure for requesting a dispensation together with an application form

The criteria which are applied in determining dispensation requests including the terms of the dispensation

Parish (including town, village and community) Councils are responsible for determining dispensations in relation to parish councillors (including town, village and community councillors) and should have in place appropriate arrangements to determine applications.

It is a matter for the parish tier council to decide whether decisions will be made by the parish tier council or delegate the decision to their clerk. This guidance may be used in helping parish tier councils to make such decisions. Similarly, in relation to Essex County Councillors these are dealt with by Essex County Council.

### 2. Purpose and effect of dispensation

In certain circumstances councillors may be granted a dispensation which enables them to take part in Council business where this would otherwise be prohibited under the Code of Conduct or by law. Provided Councillors act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct or the law. However, it should be noted that a dispensation does not authorise a councillor's participation where bias and/or pre-determination arises.

### 3. Process for making requests

Any councillor who wishes to apply for a dispensation must fully complete the attached Dispensation Application form and submit it to the Monitoring Officer at least 15 working days before the meeting for which the dispensation is required. Applications may be accepted within a shorter period in exceptional circumstances.

In order to avoid delay Councillors must ensure that they give full details of the grounds for their request and submit it to the Monitoring Officer as soon as they become aware that a dispensation is necessary.

A request for a dispensation must be made on an individual basis. Group applications are not permitted. However, the Council can put in place and review standing dispensations where it is considered appropriate.

### 4. Statutory grounds for dispensation

Section 31 of the Localism Act provides that the City Council can only grant a dispensation if, after having had regard to all relevant circumstances, the authority:

- (a) Considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business
- (b) Considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business
- (c) Considers that granting the dispensation is in the interests of persons living in the authority's area
- (d) If it is an authority operating executive arrangements, considers that without the dispensation each Member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive, or
- (e) Considers that it is otherwise appropriate to grant a dispensation

### 5. Consideration by Monitoring Officer

The Monitoring Officer will consider requests for a dispensation in the order in which they are received having regard to the legislative requirements and this guidance.

The Monitoring Officer may grant a dispensation in relation to grounds (a) or (d) if they consider it is appropriate to do so.

The Monitoring Officer will notify the councillor of their decision and reasons in writing at the earliest opportunity and in any event within 5 working days of the decision.

If a dispensation is not fully granted by the Monitoring Officer the Councillor may appeal to the Governance Committee and arrangements to consider such an appeal will be made as soon as reasonably practicable.

### 6. Consideration by Governance Committee

The Governance Committee will consider requests for a dispensation referred by the Monitoring Officer in the order in which they were received having regard to the law and this guidance.

The Governance Committee has delegated authority to consider dispensations in relation to grounds (b), (c) or (e) but may grant a dispensation in relation to any of the statutory grounds (eg where an appeal against the Monitoring Officer decision is considered).

Meetings of the Governance Committee will usually be open to the public and any councillor who has submitted a request will have the opportunity to attend and make representations in support of their application.

The Monitoring Officer will notify the Councillor of the Committee's decision and reasons in writing at the earliest opportunity and in any event within 5 working days of the decision.

#### 7. Criteria for determination of requests

In reaching a decision on a request for a dispensation the Monitoring Officer or Governance Committee will take into account:-

- (a) Whether the request meets the statutory grounds set out in the Localism Act 2011
- (b) The nature of the Councillor's interest
- (c) The extent to which the request could have been avoided or other arrangements could be made
- (d) The need to maintain public confidence in the conduct of the Council's business
- (e) The extent to which there is some personal benefit by agreeing to a dispensation
- (f) The possible outcome of the proposed vote
- (g) The need for efficient and effective conduct of the Council's business
- (h) Any other relevant circumstances

#### 8. Terms of Dispensations

Dispensations may be granted for one meeting or for a period not exceeding 4 years.

A dispensation may allow the Councillor to

Participate or participate further in any discussion of the matter at the meeting(s):  
and/or

Participate in any vote, or further vote taken on the matter at the meeting(s)

A dispensation may be subject to a specific condition (eg notification of any change in circumstances)

If a dispensation is granted the Councillor may remain in the room where the meeting considering the business is being held.

#### 9. Disclosure of Decision

Any councillor who has been granted a dispensation must declare the nature and existence of the dispensation before the commencement of any business to which it relates

A copy of the dispensation will be kept on the website with the Register of Councillor's interests.



## PART 5.1.4

### GENERAL DISPENSATIONS

At its meeting on the 26<sup>th</sup> September 2012 the Governance Committee granted the following dispensation to councillors of the Chelmsford City Council to enable them to participate in debates and to vote on any such matter, notwithstanding the fact that they may have a disclosable pecuniary interest, other pecuniary interest or a non pecuniary interest in the matter being considered at a meeting of the City Council

### **1. Housing**

Where the matter relates to the housing functions of the Council and the Councillor is a tenant of a registered social landlord or other landlord affected by the functions being discussed, provided that the matter does not only relate to the Councillor's particular tenancy or lease.

### **2. Schools and Education**

Where the matter relates to school meals or school transport and travelling expenses, where the Councillor is a parent or guardian of a child in full time education, or is a parent governor of a school, provided that the matter does not only relate to the particular school which their child attends.

### **3. Payments**

Where the matter relates to an allowance, payment or indemnity given to Councillors.

### **4. Ceremonial Honours**

Where it relates to any ceremonial honour given to Councillors.

### **5. Council Tax**

Where it relates to the setting of Council Tax or a precept under the Local Government Finance Act 1992.

### **6. Cabinet Member's Attendance at Committees**

Where it relates to a Councillor's attendance at any meeting of the Council, including specifically the Overview and Scrutiny Committee, for the purpose of making representations, answering questions or giving evidence to the Committee to explain their involvement in and the basis for any decision of the Council's Cabinet or other action taken by it, whether implemented or not, and at the time of that decision or other action the Councillor was a member of the Cabinet.

## PART 5.2

# PLANNING CODE OF GOOD PRACTICE

Chelmsford City Council has adopted the Lawyers in Local Government (LLG) Model Planning Code published in January 2024 subject to two minor amendments as set out in the Full Council decision on 17th July 2024. The attached Planning Code reflects that decision.

## **The Members Planning Code of Good Practice**

### **Background**

The Members' Planning Code of Good Practice was originally prepared in response to a series of successful court challenges concerning local planning authorities and the members' conduct or conflicts of interests. It replaced what was a number of individual and sometimes haphazard approaches in individual councils at the time. The drafting of the Model Code was subject to consultation and comment from a number of local authorities through the machinery of LLG as well as with the Local Government Ombudsman and from firms of solicitors or counsel. LLG then worked with the Local Government Association to publish the Code as part of a suite of guidance.

The Model Planning Code and Protocol was first published in 2003, was refreshed in 2007. Following the Localism Act 2011's introduction of the new law on members' conduct, the clarification in the law on bias and predetermination in that Act and in the courts<sup>1</sup> and commentary from the Committee on Standards in Public Life in better defining the Nolan Principles, it was reviewed and updated in 2014.

In 2017, the UK Supreme Court stated that the Code and Protocol "*offers sound practical advice*"<sup>2</sup>.

The Model Council Planning Code and Protocol has thus now become a central plank of the guidance used by local authorities to give their members and others advice and to direct the business of the planning decisions to ensure fairness and legality. Many councils have incorporated it into their constitutional documents and a number have turned its provisions into standing orders to provide binding rules of procedure. The ability to do this was confirmed by the Court of Appeal in 2023<sup>3</sup>.

As we approach ten years since that last update, we have looked again at the Code and Protocol for use by local authorities. In doing this we would wish to thank Bevan Brittan and in particular Philip McCourt, together with Sharon Bridglalsingh, Director of Law and Governance at Milton Keynes City Council.

This refresh will help in having clarified some of the points concerning consistency and reasoning in decision making and underscores the potential impact of social media interactions upon proceedings.

The successful operation of the planning system relies on mutual trust and understanding of Member and officer roles. It also relies on the important legal principle that a decision-maker must not only ask themselves the right question, but to obtain the relevant information to enable them to answer it correctly and to be able and willing to understand it and then take it properly.

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<sup>1</sup> R (Island Farm Development Ltd) v. Bridgend County BC [2006] EWHC 2189 (Admin), [2007] LGR 60, approved R (Lewis) v. Redcar & Cleveland BC [2008] EWCA Civ 746, [2009] 1 WLR 83

<sup>2</sup> Para 62, Dover District Council (Appellant) v CPRE Kent (Respondent) [2017] UKSC 79

<sup>3</sup> The Spitalfields Historic Building Trust, R (On the Application Of) v London Borough of Tower Hamlets [2023] EWCA Civ 917

into account when making their decision. All of this requires Members and their officers ensuring that they act in a way which that is fair and impartial and is clearly seen to be so.

In reproducing the Model Council Planning Code and Protocol in 2023, we are seeking to endorse and ensure that those principles continue to be upheld.

**LLG**  
**January 2024**

## Introduction

**The aim of this code of good practice:** 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.

One of the key purposes of the planning system is to regulate the development and use of land in the public interest. **Your role as a Member of the Planning Authority is** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.

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

**If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.**

### 1. Relationship to the Members' Code of Conduct

- **Do** apply the rules in the Authority's Code of Conduct first, which must be always be complied with. This is both the rules on disclosable pecuniary interests (and other interests if included in your authority's code) and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- **Do** then apply the rules in this Members' Planning Code, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning and development control. If you do not abide by this Members' Planning Code, you may put:
  - the Council at risk of proceedings on the legality or maladministration of the related decision; and
  - yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Localism Act 2011, a complaint being made to the police to consider criminal proceedings.
- **Do** be aware that, like the Authority's Code of Conduct, this Planning Code is a reflection and summary of the law on decision making and not a direct replication of it. If in doubt, seek the advice of your monitoring officer or their staff advising at the meeting.

## 2. Development Proposals and Interests under the Members' Code

- **Do** disclose the existence and nature of your interest as required by your members Code of Conduct.
- **Do take into account when approaching a decision that** the Principle of integrity is defined, by the Committee on Standards in Public Life in 2013, in terms that “*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***”. It is therefore advisable that you:
  - **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
  - **Do** 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 the Members' Code of Conduct may place additional limitations on you in representing that proposal
  - **Do** notify the Monitoring Officer in writing where it is clear to you that you have a disclosable pecuniary 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 Committee as a main item and not dealt with by officers under delegated powers where an adverse representation or comment has been made as per officer delegations set out in 3.4.7.21(e) of the council's constitution.
    - you must not get involved in the processing of the application; and
    - it is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at Committee.

## 3. Fettering Discretion in the Planning Process

(natural justice, predisposition and predetermination)

- **Don't** fetter your discretion and therefore your ability to participate in planning decision making at this Council by approaching the decision with a closed mind. Fettering your discretion in this way and taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of bias, pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- **Do** be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an

added measure of protection under the law. Your prior observations, apparent favouring or objections in respect of a particular outcome will not on their own normally suffice to make a decision unlawful and have it quashed, but you must never come to make a decision with a closed mind.

- **Do** keep at the front of your mind that, when you come to make the decision, you
  - must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice and the arguments from all sides;
  - are not required to cast aside views on planning policy you held when seeking election or when otherwise acting as a Member, in giving fair consideration to points raised;
  - are only entitled to take account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
  - are to come to a decision after giving what you feel is the right weight to those material considerations.
- **Do** be aware that you can be biased where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a district/borough and county councillor), provided:
  - the proposal does not substantially effect the well being or financial standing of the consultee body;
  - you make it clear to the consultee body that:
    - your views are expressed on the limited information before you only;
    - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
    - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee.
- **Do** explain that you do not intend to speak and vote as a member of the Committee because you will be perceived as having judged (or you reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes. (*Use the disclosure form provided for disclosing interests.*)
- **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member (*where this is granted by the authority's standing orders or by the consent from the Chair and Committee*) 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. Where you do:
  - advise the proper officer or Chair that you wish to speak in this capacity before commencement of the item;



- remove yourself from the seating area for members of the Committee for the duration of that item; and
  - ensure that your actions are recorded
- in accordance with the Authority's committee procedures.

#### **4. Contact with Applicants, Developers and Objectors**

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should seek to arrange that meeting yourself through a request to the [*relevant Development Control Manager*] to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- **Do** otherwise:
  - follow the rules on lobbying;
  - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
  - report to the [*relevant Development Control Manager*] 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 [a profoma has been supplied to you for this purpose].

#### **In addition in respect of presentations by applicants/developers:**

- **Don't** attend a planning presentation without requesting an officer to be present.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.
- **Do** be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a committee.

#### **5. Lobbying of Councillors**

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to express an intention to vote one way or

another or such a firm point of view that it amounts to the same thing.

- **Do** remember that your overriding duty is to the whole community not just to the people in your [ward][division][particular interest or area] and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible, including its addition to your register of interests where relevant.
- **Do** copy or pass on any lobbying correspondence you receive to the [*relevant Development Control Manager*] at the earliest opportunity.
- **Do** promptly refer to the [*relevant Development Control Manager*] any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you 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.
- **Do** note that, unless you have a disclosable or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code through:
  - listening or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other Members or appropriate officers (making clear that you must keep an open mind);
  - seeking information through appropriate channels; or
  - being a vehicle for the expression of opinion of others in your role as a [Ward][Division] Member.

## **6. Lobbying by Councillors**

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will be seen to have fettered your discretion on the grounds of bias.
- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but you should normally disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal
- **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- **Do** be aware of the power of social media posts or re-posting and be careful to not to give

the impression that you will definitively vote in a certain way or act with a closed mind if you intend to participate in the decision making on behalf of the authority.

- **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

## 7. Site Visits/Inspections

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
  - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection;  
or
  - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the Committee
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the [Ward][Division] Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
  - you feel it is essential for you to visit the site other than through attending the official site visit,
  - you have first spoken to the [*relevant Development Control Manager*] about your intention to do so and why (which will be recorded on the file) and
  - you can ensure you will comply with these good practice rules on site visits.

## 8. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally, in writing or by social media) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
- **Don't** participate in social media or exchanges by texting as a member of the committee during the committee's proceedings as this may give the impression of undue external influence and may give the appearance of bias.

- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

## 9. Officers

- **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Development Control Manager, which may be incorporated into any committee report).
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

## 10. Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your planning reasons are recorded and repeated in the report to the Committee.
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter. (Where a matter is deferred and its consideration recommences at a subsequent meeting, only Members who were present at the previous meeting will be able to vote. If this renders the Committee inquorate then the item will have to be considered afresh and this would include public speaking rights being triggered again).
- **Do** have recorded the reasons for Committee's decision to defer any proposal [and that this is in accordance with the Council's protocol on deferrals].
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded (where the planning committee is minded to make a

decision contrary to officer recommendation the item will normally be deferred to the next meeting for consideration of appropriate conditions and reasons together with implications of such a decision clearly explained in the report back). Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

## 11. Training

- **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.
- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus

assist you in carrying out your role properly and effectively.

- **Do** participate in the annual review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.

**LLG**  
**January 2024**

## Acknowledgements

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Bevan Brittan 

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**5.2.8      CONDUCT AT THE MEETING**

5.2.8.1      The Chair of the Planning Committee is responsible for the conduct of the meeting in accordance with the relevant Council Procedure Rules and for the effective delivery of business. (See Parts 4.2 and 4.3 of the Constitution.)

5.2.8.2      The Planning Committee meetings are open to the public and are often well attended. It is important to demonstrate that decisions have been made fairly and transparently. Any debate should be confined to the merits of the matter and all speakers must be afforded due respect.

**5.2.9      PUBLIC QUESTION TIME AND CONTRIBUTIONS BY OTHER BODIES AT PLANNING COMMITTEE**

5.2.9.1      In accordance with paragraph 4.2.14.3 of the Constitution, members of the public may speak at Planning Committee and the following process will be followed:

- a) Each person is allocated two minutes to ask a question or make a statement on any item before the Committee. The Chair may in exceptional cases and at their discretion extend the 2 minutes time period for individual questions/statements, provided no unfairness will result.
- b) A total of fifteen minutes is allocated to each meeting for public questions although the Chair can extend this.
- c) These arrangements also apply to applicants and agents.
- d) No supplementary questions or statements will be allowed by the same person other than at the discretion of the Chair of the Committee as set out in paragraph 5.2.6.7 above.

5.2.9.2      In accordance with 4.2.23.1 of the Constitution, a representative of a Parish or Town Council may speak at a Planning Committee meeting for up to 5 minutes on any application to be decided by the Committee, provided it is a matter about which that Parish/Town Council has been consulted.

5.2.9.3      All those members of the public wishing to speak should be asked to:

- a) give their name and address
- b) confine their comments to planning merits, and
- c) not to repeat comments made by previous speakers on the same item.

- 5.2.9.4 Generally new documents cannot be circulated at the Committee meeting as Members of the Committee may not be able to give proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material considerations arising. The Chair may in exceptional circumstances, and at their discretion, allow documents to be circulated at the meeting if the alternative would be to defer the item and provided no unfairness results.
- 5.2.9.5 Messages should never be passed to individual Committee members, either from other councillors or from the public. This could be seen as seeking to influence that councillor improperly and could create a perception of bias.
- 5.2.9.6 Other City Councillors may attend and address the Committee and at the Chair's discretion follow up with any supplementary information if necessary but cannot vote.

#### **5.2.10 SITE VISITS**

- 5.2.10.1 Site visits by members of the Planning Committee will only usually be necessary if the impact of the proposed development is difficult to visualise from the plans and any supporting material including photographs taken by officers.
- 5.2.10.2 The Planning Committee, after having agreed the need for a site visit, shall clearly specify the reason(s) for the site visit and indicate those aspects which it would wish to consider on the application site or adjoining site and any other arrangements for the site visit. The application will be deferred to a future meeting once the site visit has taken place.

#### [Site Visits Practice Note](#)

#### **5.2.11 TRAINING**

- 5.2.11.1 Councillors involved in taking decisions should have undertaken appropriate training on planning matters. The subjects covered by the training will be decided by officers in consultation with councillors. Such training should include all aspects of probity in planning and the need not to put pressure on members of the Committee to vote in a particular way when determining applications.
- 5.2.11.2 No councillor should be appointed to the Planning Committee as a member or substitute without having agreed to undertake training in planning procedures as specified by the Council. Planning Committee members and substitutes who attend fewer than two training events in a year will be ineligible to serve on the Committee or act as a substitute for members of the Committee.

5.2.11.3 New Members of the Planning Committee are required to attend as many of the training sessions as they can and in any case at least two in the first six months following their appointment to the Committee.

5.2.11.4 All Planning Committee training presentations will be published on the Members' area on the Council's Intranet.

#### **5.2.12 REGULAR REVIEW OF DECISIONS**

5.2.12.1 From time to time arrangements will be made for members of the Planning Committee to visit a sample of implemented planning permissions, so that a regular review of the quality of decisions can be undertaken.

#### **5.2.13 PETITIONS**

5.2.13.1 Whilst petitions are generally covered by the Constitution at Part 4.3, those received in respect of planning applications are not subject to that procedure.

5.2.13.2 Any such petitions:

- a) will be summarised as to objections or support in the same manner as other consultation responses;
- b) will have the number of signatories reported and the chief signatory advised if the matter is being brought before the Planning Committee.

5.2.13.3 Whether the decision is taken by Committee or officers, the summary of the issues raised will be addressed in any report produced before the decision is taken.

#### **5.2.14 GIFTS AND HOSPITALITY**

5.2.14.1 The rule on the receipt of Gifts and hospitality received by councillors and officers is set out in Part 5.1.2 Annex 7 of the Constitution. However, in addition, Planning Committee members and substitutes must declare any Gifts or Hospitality from anyone, other than cups of tea or similar refreshment.



## PART 5.3

# PROTOCOL FOR RELATIONSHIPS

## BETWEEN

# COUNCILLORS AND OFFICERS

## **Contents**

|        |   |        |
|--------|---|--------|
| 5.3.0  | General   | Page 3 |
| 5.3.1  | Personal relationships between Members and Officers | Page 3 |
| 5.3.2  | Appointment or Dismissal of Officers                | Page 3 |
| 5.3.3  | General Working Relationships                       | Page 4 |
| 5.3.4  | Cabinet Members and Officers                        | Page 4 |
| 5.3.5  | Political Groups and Officers                       | Page 5 |
| 5.3.6  | Declarations of Interest by Members                 | Page 5 |
| 5.3.7  | Support Services to Members                         | Page 5 |
| 5.3.8  | Member's Entitlement to Information                 | Page 6 |
| 5.3.9  | Conventions on Correspondence and Press Releases    | Page 6 |
| 5.3.10 | Local Members                                       | Page 7 |

### **5.3.0 GENERAL**

5.3.0.1 The primary role of Councillors and officers is to serve the public and they must work together to meet their respective responsibilities. Councillors are responsible to the electorate and, through the system of decision-making and review bodies, take and scrutinise decisions on their behalf. Officers are responsible to the elected Council as a whole and to their managers and the Chief Executive. Officers are expected to give advice to members and to take their instructions through the decision making and review process set out in the Council's Constitution. They are also expected faithfully and conscientiously to implement the lawful decisions of councillors and properly to take decisions delegated to them

5.3.0.2 The National Code of Local Government Conduct and the employees' code give guidance on the standards and attitudes expected of members and officers and this Council expects both to be followed. The main principles that underpin the codes are:-

- a) mutual respect and courtesy between officers and members;
- b) an awareness of each other's responsibilities and duties;
- c) equal treatment, regardless of personal or political opinions;
- d) an adherence to the law and the lawful instructions and advice of others;
- e) an avoidance of close personal familiarity.

5.3.0.3 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.

### **5.3.1 PERSONAL RELATIONSHIPS BETWEEN MEMBERS AND OFFICERS**

5.3.1.1 Where there exists an unavoidable personal relationship between a member and officer (whether it be family or social) the member concerned will notify the Chief Executive and their group leader. The officer concerned will inform their Director of Service or the Chief Executive, as appropriate. If the officer in question is the Chief Executive, they will inform the group leaders.

### **5.3.2 APPOINTMENT OR DISMISSAL OF OFFICERS**

5.3.2.1 Members will take no part in the appointment or dismissal of officers below Director; nor should they seek to influence in any way the appointment or dismissal of a particular person to a post.

5.3.2.2 Members must not take part in the appointment or dismissal of Directors of Service and above if they are in any way related to or associated with the person concerned.

### **5.3.3 GENERAL WORKING RELATIONSHIPS**

- 5.3.3.1 A member should not pressure an officer to do something they are not authorised to do or which is against his professional judgement. A member should also not require an officer to do something which is outside his normal duties or working hours.
- 5.3.3.2 An officer must not seek to influence a member to do something that may be advantageous to the officer personally or professionally or injurious to another officer. Any approaches of this nature should be reported to the Chief Executive.
- 5.3.3.3 No member or officer shall criticise or otherwise undermine the other at Council or other public meetings. If a member believes they have not been treated with courtesy by an officer or has concerns about an officer's conduct or capability they shall approach the relevant Director or the Chief Executive, as appropriate. Any subsequent action shall be taken in accordance with the Council's disciplinary procedures.
- 5.3.3.4 If an officer is concerned about treatment by or conduct of a member they shall raise the matter with their Director or the Chief Executive, as appropriate. If sufficiently serious, a matter complained of may be investigated by the Standards Committee.
- 5.3.3.5 As a last resort, the Council's Whistleblowing policy may be followed in appropriate cases.

### **5.3.4 CABINET MEMBERS AND OFFICERS**

- 5.3.4.1 Cabinet Members will need to work closely with individual officers, especially those within the services for which the Cabinet Member is most directly responsible. As such, both members and officers should avoid even the suspicion of impropriety or partiality that too close a contact or relationship may imply.
- 5.3.4.2 When taking a decision a member of the Cabinet must ensure that all relevant advice and information from officers is sought and due regard taken before the decision is made. That information may include financial, legal and policy implications. A Cabinet Member should be consulted during the production of a report that affects their area of responsibility and the officer will give due consideration to the member's comments.
- 5.3.4.3 The Director should be aware of and follow his duties as laid down by law, the

Council's code of conduct, Constitution and, where relevant, their professional body. Where any of these conflict with the wishes of a member of the Cabinet, the matter should be referred to the Chief Executive, who may raise it with the Leader of the Council, if appropriate.

- 5.3.4.4 Officers below Director level are expected to follow the legitimate instructions of a Cabinet Member. Where these conflict with the law, Constitution or the code of conduct, the matter should be raised with the Director.

### **5.3.5 POLITICAL GROUPS AND OFFICERS**

- 5.3.5.1 A service or facility available to one political group should be available to all and an officer providing that service should provide it equally and impartially. Such services may include briefings prior to meetings or discussions with a group on a particular topic. Where this type of arrangement occurs the following principles should be observed by members and officers:

- a) officer support extends only to the provision of information and advice on Council business. It does not include advice on party or personal matters. To this end, officers should not be present at any part of a group meeting which discusses party political business;
- b) any advice given to one party group at such meetings should be available to the other groups, prior to or at formal decision making meetings;
- c) the confidentiality of party group meetings should be respected;
- d) decisions taken at party group meetings are not formal decisions of the Council and should not be treated as such by officers.

- 5.3.5.2 Where officers have particular difficulties involving advice to party groups these should be raised with the Chief Executive.

### **5.3.6 DECLARATIONS OF INTEREST BY MEMBERS**

- 5.3.6.1 The Council's officers, principally those in Legal and Democratic Services, will provide advice to members on declarations of personal or prejudicial interests and will draw a member's attention to any known interest. That advice may be confidential if the member so requests it. It is the member's responsibility, in the light of the advice and their knowledge of the extent of their interest, to decide whether an interest should be declared.

### **5.3.7 SUPPORT SERVICES TO MEMBERS**

- 5.3.7.1 Only such services as are necessary to assist members to carry out their roles as elected councillors will be provided to members. These services may include the provision of typing, printing and stationery but they can only be used for legitimate Council business and not for private purposes or party political activities.

### **5.3.8 MEMBERS' ENTITLEMENT TO INFORMATION**

- 5.3.8.1 Members may receive such information as is necessary for them to carry out their role as Councillors.
- 5.3.8.2 All members are entitled by law to inspect any public Council document, whether it is a report or a background paper, which contains material relating to any business to be conducted at any meeting of the Council or its bodies. This right does not extend to exempt or confidential items or papers.
- 5.3.8.3 Under common law, members have a right to inspect Council documents if it is necessary to enable them to perform their duties as Councillors.
- 5.3.8.4 If a member can demonstrate this "need to know" to the satisfaction of the Director holding the information they may inspect a document. The Director may seek the advice of the Legal and Democratic Services Manager in this respect. Any dispute should be referred to the Chief Executive. Where a member is seeking information on a matter which is not directly relevant to their service on a particular body, but which they feel is necessary for them to perform their duty as a Councillor, the details of the information requested and the reasons for seeking it should be put in writing to the relevant Director.
- 5.3.8.5 Any information provided to a member may only be used for the proper performance of their duties and should not be used for their own or others' personal advantage. Exempt or confidential information should not be disclosed to persons outside the Council.

### **5.3.9 CONVENTIONS ON CORRESPONDENCE AND PRESS RELEASES**

- 5.3.9.1 Councillors must not normally communicate in the name of the Council with any outside body or person. All such communications should be carried out by the appropriate officer. However, members of the Cabinet may communicate with the media and local groups on matters within the existing policy framework of the Council, whilst avoiding the promotion or criticism of any particular political views.
- 5.3.9.2 Correspondence between an officer and member may be made available to others unless it is agreed that it should be kept confidential. Officers should consider, when providing information to one member, whether others should also be informed, e.g. in relation to a ward or local matter, unless there are good reasons for not making the information more widely available.

### **5.3.10 LOCAL MEMBERS**

- 5.3.10.1 Members representing an area where a meeting is being organised on behalf

of the Council in respect of a local issue should be made aware of it and entitled to attend. They should also be given details of any consultation on a local matter.

## PART 5.4

# MAYORAL PARTY RULES



## **Contents**

| <b><u>Paragraph</u></b> | <b><u>Subject</u></b>                            | <b><u>Page</u></b> |
|-------------------------|--|--------------------|
| 5.4.0                   | General principles                               | 2-3                |
| 5.4.1                   | Neutrality                                       | 3                  |
| 5.4.2                   | Form of Address                                  | 3                  |
| 5.4.3                   | Attire and Regalia                               | 3-4                |
| 5.4.4                   | Events   | 4-5                |
| 5.4.5                   | Expenses of the Mayoralty, Gifts and Hospitality | 5-6                |
| 5.4.6                   | Use of the Civic Car                             | 6                  |
| 5.4.7                   | Mayor's Charity                                  | 6                  |
| 5.4.8                   | Patronage and Other Support                      | 7                  |
| 5.4.9                   | Spiritual Support                                | 7                  |
| 5.4.10                  | Correspondence and Sealing of Documents          | 7                  |

5.4.0 **GENERAL PRINCIPLES**

5.4.0.1 These Rules establish the principles under which the Mayoral Party will carry out their duties and responsibilities. In particular the Party must observe Part 2, Article 5 of the Council's Constitution, the Council Procedure Rules in Part 4.1 of the Constitution and the [Mayoral Party Protocol](#), which has the status of a Practice Note for the purposes of the Constitution.

5.4.0.2 The Mayor will be responsible for the interpretation of the Constitution as set out in Part 2, Article 16 thereof.

5.4.0.3 Administrative and organisation support will be provided to the Mayoralty by the Council and is referred to in these Rules as the Mayor's Office.

5.4.0.4 The role of the Mayoral Party, its responsibilities and guidance on the appropriateness of any duties to be undertaken will be dealt with at the Mayoral Working Group. The following will attend its meetings:

- a) Mayor
- b) Deputy Mayor
- c) Leader of the Council
- d) Opposition representative(s)
- e) Chief Executive
- f) Mayor's Office representatives
- g) The Mayor and Deputy Mayor designate (to receive guidance for the forthcoming year)

5.4.0.5 In particular, the Mayoral Working Group will regularly consider issues arising in relation to:

- a) The interpretation of and changes required to the Mayoral Party Rules and Mayoral Party Protocol
- b) Mayoral Engagements
- c) Civic Events
- d) Honorary Freeman and Freedoms
- e) Town Twinning

**Role of the Mayoralty**

5.4.0 6 The Mayor is the First Citizen of the City and will personally carry out the duties of the Mayoralty as far as is reasonably practical.

**Role of the Deputy Mayor**

5.4.0.7 The role of the Deputy Mayor is to deputise for the Mayor when the latter is not available to attend a function or if there is more than one invitation for the same date and time. The Deputy Mayor's role is not to act as Mayoral support.

5.4.0.8 When the Mayor is unavailable to attend a function and the Deputy Mayor is required to attend, then the Deputy Mayor will have use of the Civic Car and chauffeur. All other transportation arrangements should be organised through the Mayor's Office.

5.4.1 **NEUTRALITY**

5.4.1.1 The Mayoral Party represents the whole City during the term of office. The Mayor, and Deputy Mayor, will therefore during their year of office and whilst acting in this official capacity:

- a) Maintain political neutrality
- b) Chair Council meetings with absolute impartiality
- c) Ensure that a fellow ward or adjoining ward Councillor is available to deal with certain aspects of Council business
- d) As far as is reasonably practical, not attend party political functions in the role of the Mayor or Deputy Mayor.

5.4.2 **FORM OF ADDRESS**

5.4.2.1 The usual form of address for the Mayor is "Mr Mayor", if male, and "Madam Mayor", if female. The Deputy Mayor is addressed as "Deputy Mayor". All Officers of the Council are expected to address the Mayor formally.

5.4.2.2 There are also prescribed forms of address to be used when speaking to or addressing visiting dignitaries. The Mayor's Office will ensure that the appropriate form of words is identified before any such engagement takes place or correspondence entered into.

5.4.3 **ATTIRE AND USE OF THE MAYORAL REGALIA**

5.4.3.1 The type of attire required at any occasion will be determined by the type of function to be attended and as explained in the Mayoral Party Protocol Practice Note.

5.4.3.2 The Mayor and Deputy Mayor will wear the formal Regalia and Chains of Office on the following occasions:

- a) All meetings of the Council.
- b) The Civic Service.
- c) Remembrance Sunday.
- d) The Justice Service.
- e) Visits of Royalty (unless otherwise requested).
- f) Such other occasions as will be agreed by the Mayoral Working Party.

5.4.3.3 The Regalia of Office means the gown, jabot, gloves, hat and Ceremonial Chains of Office or the Mayoral/Day Chain. The Mayor's Office will advise the Mayoral Party on the appropriate form of dress for a particular event or occasion.

#### 5.4.4 **EVENTS**

5.4.4.1 There are four main categories of event as set out below. The number of each and protocol to be used at each category differ and details are contained in the Mayoral Party Protocol Practice Note:

- a) Annual Civic events;
- b) Those promoted or organised by the Council, or the Mayor, or at which either act as hosts;
- c) Those which the Mayor is expected to attend; and
- d) Those which the Mayor may be invited to attend.

##### **Annual Civic Events**

5.4.4.2 The guest lists, selection of speakers and sequence of speeches at Civic events will be determined by the Mayor, in consultation with the Mayoral Working Group.

##### **Events Promoted by the Council or the Mayor**

5.4.4.4 The Mayor will normally be invited to officiate at all events or occasions of major civic significance, but is not required to be involved in all Council promoted events.

5.4.4.5 Where attendance of the Mayor, and/or other members of the Mayoral Party is required, the organiser of the event will arrange an adequate and timely briefing through the Mayor's Office.

##### **Arrangements for inviting the Mayor to Events**

5.4.4.6 Invitations for the Mayor to attend functions are for the Mayor and other members of the Mayoral Party only.

5.4.4.7 Formal invitations must be made through the Mayor's Office. If accepted, the invitation will be confirmed and an acceptance letter and engagement form will be sent to the inviting party for completion, which must be returned to the Mayor's Office.

5.4.4.8 This procedure shall apply equally to events organised by Council departments as well as those from external organisations or individuals.

5.4.4.9 Engagement lists showing forthcoming engagements will be prepared on a regular basis. They will include details of the events, the date and time of each engagement, and the organisation and venue for each event the Mayoral Party is attending. The lists will be distributed to:

- a) The Mayor and the Deputy Mayor;
- b) Council officers, the police, and local & national media sources as appropriate.

#### **Visits Outside the City**

- 5.4.4.10 It is customary for the Mayor's Office to seek the permission of the "host" authority for the Mayor (or a member of the Mayoral Party, as appropriate) to wear the chain or badge of office. Conversely, a Mayor or Chair of another authority attending a function in the City of Chelmsford will seek permission from the Mayor's Office to wear their chain or badge of office.

#### **Precedence**

- 5.4.4.11 When a Royal visit is to take place in the City's area, the following rules will be applied as to which dignitary takes precedence and the order of precedence.

- a) On official Royal visits to the county the Chair of the County Council takes precedence before the Mayor and on such occasions the order of presentation by the Lord Lieutenant to the Royal visitor will normally be:
  - i. Lord Lieutenant's partner
  - ii. High Sheriff and partner
  - iii. Chair of County Council and partner
  - iv. County Chief Executive and partner
  - v. Mayor and their partner
  - vi. District (City) Chief Executive and partner
  - vii. Member of Parliament and partner
  - viii. Chief Constable and partner
  - ix. the principal organiser of the event to which the visit is being made
  - x. Other necessary presentations may be deputed to the organiser.
- b) Where there is a Royal official visit to the City and the event or matter relates to the functions of the City Council the order of presentation by the Lord Lieutenant to the Royal visitor will normally be:
  - i. Lord Lieutenant's partner
  - ii. High Sheriff and partner
  - iii. Mayor and their partner
  - iv. District (City) Chief Executive and partner
  - v. Chair of County Council and partner
  - vi. County Chief Executive and partner
  - vii. Member of Parliament and partner
  - viii. Chief Constable and partner
  - ix. the principal organiser of the event to which the visit is being made

Other necessary presentations may be deputed to the organiser.

5.4.5            **EXPENSES OF THE MAYORALTY, GIFTS AND HOSPITALITY**

5.4.5.1           The Mayor and the Deputy Mayor shall each receive a personal allowance to meet expenses incurred by them and their partners because of their official duties. This will be approved as part of the Member's Allowance Scheme.

5.4.5.2           A specific budget will be set annually for the costs of managing and administering the Mayoral functions as part of the Council's normal budget approval procedure. It will be administered by the Mayor's Office.

5.4.5.3           If the Mayoral Party receive gifts during the term of office from organisers of events or from visitors to the Parlour these must either:

- a)           Be recorded in the Register of Civic Gifts (held by the Mayor's Office) and kept in the Mayor's Parlour; or
- b)           Declared as a gift in accordance with the requirements of the Code of Conduct for Councillors as set out in Part 5.1 of the Constitution.

5.4.5.4           Any hospitality received by the Mayoral Party during their year of office must also be notified to the Mayor's Office and recorded in accordance with the requirements of the Code of Conduct for Councillors as set out in Part 5.1 of the Constitution.

5.4.6            **USE OF THE CIVIC CAR**

5.4.6.1           Where appropriate the Council will provide a Civic Car or other transport for the Mayoral Party for official business. The Civic Car may be used for other purposes but only when authorised in advance by the Chief Executive.

5.4.6.2           The use of the Civic Car will normally be limited to transporting members of the Mayoral Party to and from engagements taking place other than at the Civic Centre. A specific exception applies where transport is required for the purpose of attending meetings of the Council.

5.4.7            **THE MAYOR'S CHARITY**

5.4.7.1           The role of Mayor is a civic office. Charitable work can be undertaken by the Mayoral Party but should be regarded as incidental to and not a major function of the Mayoralty.

5.4.7.2           A Mayor may choose to nominate a charity or charities to receive Mayoral support during the year. The organisation of any charitable events or liaison with the charitable organisations chosen will not be organised by the Mayor's Office.

5.4.7.3 The Mayoral Party must inform the Mayor's Office of any engagements associated with the nominated charity to ensure that there is no conflict with civic events, which will take precedence.

5.4.7.4 A separate bank account must be opened to be administered by the Mayor, Mayoress, other nominated councillor or person to ensure that any charitable monies received can be accounted for. Any expenses incurred on behalf of the Mayor's charity should be made from the Mayor's charity account. No Council officer will be involved with the administration of the Charity account. A summary of the financial position on the Charity account will be provided to the Mayoral Working Group twice a year.

5.4.8 **PATRONAGE AND OTHER SUPPORT**

5.4.8.1 The Mayor, by virtue of the office, may be a Patron, President or Member of a number of organisations during the year of office. The Mayor must not personally agree to invitations to act as patron as this may put the Council in a difficult situation.  
Any request for such support of patronage should be made to the Mayor's Office and approval must be officially agreed through that office.

5.4.9 **SPIRITUAL SUPPORT**

5.4.9.1 The Mayor may appoint a suitable person to provide spiritual support for the Mayoral functions during the Mayor's term of office. The person appointed would normally be someone who is an official of a religious group, reflecting the Mayor's own religion.

5.4.9.2 The person appointed may act as a focal point for religious groups in the area, advise the Mayor on spiritual matters and assist the Mayor to understand and lead all sections of the community.

5.4.9.3 The person appointed will normally conduct prayers at the start of a meeting of the Council. It will not be seen as a sign of disrespect to the Mayor if members of the Council and any public attending the meeting do not wish to participate in the prayers and do not enter the room in which the meeting is being held until after they have finished.

5.4.10 **CORRESPONDENCE AND SEALING OF DOCUMENTS**

5.4.10.1 All correspondence addressed to the Mayor, but which relates to the business of the Council, will only be acknowledged by the Mayor's Office on behalf of the Mayor. It will then be passed for detailed reply or action to the relevant Director, Executive Member or Committee Chair as appropriate.

- 5.4.10.2 Arrangements for the Mayor or Deputy Mayor to witness the affixing of the Council's seal to any document will be organised through the Mayor's Office.



## PART 5.5

### INFORMATION SECURITY

### CODE OF CONDUCT

## **Information Security Code of Conduct**

It is very important that the council can ensure the security of information and systems used to store and process information. This document sets out the Information Security Code of Conduct (ISCC) for all members of staff as well as other system users as provided. This is supported by Corporate Information Security Policies which are available on the intranet. This Code of Conduct is also supplemented by a Supporting Manual which is available on the intranet. The ISCC is distributed to all relevant users.

All users will be required to confirm they have read and understood the Code of Conduct before ICT equipment is provided or access to systems, including the network, is granted. Breach of the Code could result in formal action, which may include disciplinary action in the case of employees, and withdrawal of access to all, or any of the Council's systems.

The ISCC and/or the underpinning policies will be amended as changes occur, for example to the ICT environment and/or wider information arrangements. Users will be advised in this event.

## **Information Security Code of Conduct**

### **1. Who does this code apply to?**

- 1.1 This document applies to anyone who uses, provides, or maintains Chelmsford City Council's (CCC) Information Technology systems. This includes staff (both permanent and temporary), contractors, agency staff, casual workers, work experience students as well as councillors. For easy reference, the term "users" will be used throughout this Code.
- 1.2 It applies to information (whether obtained from information systems or otherwise) that you hold at all times whether or not you are at work (staff and workers should also refer to the Council's "working flexibly – our approach" Policy). It does not apply to information relating to your private life or outside of work or to your use of your own or others IT systems.
- 1.3 Your use of any Chelmsford City Council's ICT facilities is subject to you reading, understanding, and formally agreeing to be bound by the terms and conditions of use set out in this document.
- 1.4 Breach of this Code may result in formal action, which may include disciplinary action, or withdrawal of access to some or all of the Council's systems.

### **2. Acceptable Use Policy**

You must comply with the Council's Acceptable use policy. Users should not divulge any CCC information to third parties including forwarding or storing information in personal accounts unless it is appropriate or otherwise authorised for them to do so. By way of contrasting examples, it would not be appropriate for a staff member to forward Council work emails to any individuals outside of the Council, including friends or family. Whereas it would normally be reasonable for a councillor to share information provided to them in order that they can respond to a resident's inquiry, unless advised that the information is confidential or should not be released.

### **3. Cyber security & Malware**

You must comply with the Council's Anti Malware policy.

#### **4. Control over systems and data**

- 4.1 You must not attempt to gain access to or manipulate any data for which you have no approval or need, to conduct your duties. You are responsible for understanding and adhering to your access rights to any given hardware, application system or data file.
- 4.2 Application systems and the ICT Infrastructure must not be changed unless formally authorised.
- 4.3 You must always save files relating to your CCC role to an appropriate location in accordance with the Council's Information Governance Policy and Information Storage Policy. Any transferral of data or information will be undertaken in accordance with the Council's Information Transfer Policy. Members or contractors may use non CCC IT systems and appropriate arrangements should be made in relation to the storage of any CCC information so that the information is kept secure.

#### **5. Physical security**

- 5.1 All users must be visibly identifiable as a council employee or as having authorisation to be on council premises, and where relevant, you must always wear your security badge and challenge those who are not wearing a badge.
- 5.2 You must not lend your access pass or personal keys to anyone.
- 5.3 Do not let anyone 'tailgate' you at any entrance unless they are wearing a valid CCC pass.

#### **6. Printing**

Use of CCC printing resources (printers, ink, paper) for personal or otherwise non CCC business reasons must be kept to an absolute minimum, especially colour printing. As a general guide, occasional printing of no more than one or two pages may be printed for personal use but anything additional to this should be specifically authorised by an appropriate manager.

#### **7. Flexible Working**

Staff must comply with the Council's "Working flexibly – our approach" Policy.

## **8. Confidential waste**

You must comply with the Council's Disposal of Information Policy.

## **9. Legal requirements**

All users must comply with the following legislation in their work:

Data Protection Act 2018

Freedom of Information Act 2000

Computer Misuse Act 1990

Health and Safety Act 1974

Copyright Designs and Patents Act 1998

Regulation of Investigatory Powers Act 2000 (as amended)

Most council procedures and systems are structured to ensure compliance with this legislation, but if you have any concerns or queries you should raise them with an appropriate manager or staff in legal services.

## **Human Resources**

# **Code of Conduct for Employees/Workers**

# Chelmsford City Council

## Code of conduct for employees/workers

### Table of contents

|  |           |
|--|-----------|
| <b>1. Explanatory introduction .....</b>                       | <b>5</b>  |
| 1.1. Application .....   | 5         |
| 1.2 Principles of Public Life .....                            | 4         |
| 1.3. Purpose behind the Code.....                              | 5         |
| 1.4. Status of the Code .....                                  | 6         |
| 1.5. Non-Observance of the Code.....                           | 7         |
| 1.6. Interpretation .....                                      | 7         |
| <b>2. Values and Behaviours .....</b>                          | <b>7</b>  |
| <b>3. Customer Service and Standards.....</b>                  | <b>7</b>  |
| 3.1. General .....   | 7         |
| 3.2. Standards of Dress .....                                  | 8         |
| 3.3. Consumption of Alcohol and Drugs .....                    | 8         |
| 3.4 Comments, compliments and complaints .....                 | 8         |
| 3.5 Hours and Attendance .....                                 | 8         |
| 3.6 Disciplinary Standards .....                               | 9         |
| <b>4. Disclosure and use of confidential information.....</b>  | <b>9</b>  |
| 4.1. Information Security .....                                | 9         |
| 4.2 Disclosure of Criminal Convictions during employment ..... | 10        |
| 4.3. Use of Information by Employees.....                      | 10        |
| <b>5. Equality, Diversity and Inclusion.....</b>               | <b>10</b> |
| <b>6. Political neutrality .....</b>                           | <b>11</b> |

|            |  |           |
|------------|--|-----------|
| 6.1.       | When Carrying Out Work .....   | 11        |
| 6.2.       | Dealings with Elected Members .....  | 11        |
| 6.3.       | Political Assistants .....   | 11        |
| <b>7.</b>  | <b>Acceptance of gifts &amp; hospitality .....</b>                                 | <b>11</b> |
| 7.1.       | General .....  | 11        |
| 7.2.       | Accepting Hospitality .....  | 11        |
| 7.3.       | Giving of Hospitality.....   | 12        |
| <b>8.</b>  | <b>Personal interests - disclosure etc.....</b>                                    | <b>12</b> |
| 8.1.       | The Underlying Principle.....  | 12        |
| 8.2.       | Disclosure Generally .....   | 12        |
| 8.3.       | Statutory Duty to Disclose any Financial Interest in Contract.....                 | 13        |
| <b>9.</b>  | <b>Relations with outside contractors and proposed contractors.....</b>            | <b>13</b> |
| 9.1.       | Familiarity with Contract Rules etc.....   | 13        |
| 9.2.       | Awarding of Contracts and Orders .....   | 13        |
| 9.3.       | Disclosure of Private Work Carried out by Contractors - The General Principle..... | 14        |
| 9.4.       | Exceptions .....   | 14        |
| 9.5.       | Employees Who Supervise Contracts .....  | 15        |
| <b>10.</b> | <b>Outside commitments .....</b>   | <b>15</b> |
| <b>11.</b> | <b>Separation of roles during tendering .....</b>                                  | <b>16</b> |
| 11.1.      | Separation of Roles .....  | 16        |
| 11.2.      | Fairness and Impartiality.....   | 16        |
| <b>12.</b> | <b>Use of resources and council property etc .....</b>                             | <b>16</b> |
| 12.1.      | Use of Resources.....  | 16        |
| 12.2.      | Commitment to the environment  | 16        |
| 12.3.      | Use of Council Property Etc.....   | 16        |



|   |           |
|---|-----------|
| 12.4. Security, health and safety .....                                 | 16        |
| <b>13. Close Personal Relationships at Work</b>                         |           |
| 13.1. Recruitment .....   | 17        |
| 13.2. Other Employment Matters.....                                     | 17        |
| 13.3 Relations with other employees                                     | 17        |
| <b>14. Social media. Communications and working with the media.....</b> | <b>17</b> |
| 14.1 Social media .....   | 17        |
| 14.2 Communications and publications                                    | 18        |
| 14.3 Working and contact with the media                                 | 18        |
| <b>15. Safeguarding.....</b>  | <b>17</b> |
| <b>16. Generally</b>  | <b>18</b> |

## Appendix I                      Registration of Officer interests

## **I. Introduction**

### **I.1. Application**

This Code of Conduct applies to all Chelmsford City Council employees\* and workers irrespective of the job that they do or the grade that they are on.

### **I.2 Principles of public life**

The 7 principles of public life apply to anyone who works as a public office holder. <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

These principles underpin the Council's policies, procedures and processes set out in this Code of Conduct and elsewhere.

This includes people who are elected or appointed to public office, nationally and locally, and all people appointed to work in:

- the civil service
- local government
- the police
- the courts and probation services
- non-departmental public bodies
- health, education, social and care services

The principles also apply to all those in other sectors that deliver public services.

They were first set out by Lord Nolan in 1995 and they are included in the Ministerial code.

#### **1. Selflessness**

Holders of public office should act solely in terms of the public interest and not in order to gain financial or other material benefit for yourself, family or friends.

#### **2. Integrity**

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

### 3. Objectivity

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

### 4. 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.

### 5. 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.

### 6. Honesty

Holders of public office should be truthful.

### 7. 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.

## **1.3. Purpose behind the Code**

Chelmsford City Council is a public authority funded in the main from revenue raised by local and central government taxation. As such, the public, and all other individuals and organisations who come into contact with the Council, are entitled to expect from the Council's employees the highest standard of service in terms of integrity, efficiency, impartiality and courtesy.

This Code sets out the standard of conduct that Chelmsford City Council employees should adhere to when carrying out their work and duties. In addition, its purpose is to maintain and improve standards and protect employees from misunderstanding or criticism.

Employees should always bear in mind that it is not enough to avoid actual impropriety or improper conduct. Employees should always endeavour to avoid any occasion for suspicion and any appearance of improper conduct or impropriety.

## **1.4. Status of the Code**

This Code has been formally approved and adopted by the Council.

The Council believes that the Code represents the standard against which the conduct of employees will be judged, both by the public and by their fellow employees. It is not an exhaustive listing of all standards expected of employees.

### **1.5. Non-Observance of the Code**

Failure to adhere to the Code can bring the Council and indeed the whole local government service into disrepute. Such failure could also lead to a finding of maladministration on the part of the Council by the Local Government Ombudsman.

One of the purposes of the Code is to provide guidance to employees and seek to protect them from misunderstanding or criticism. It is therefore in each employee's own interest to adhere to the Code. Employees should be aware that breach of the Code will constitute misconduct (and in certain circumstances, gross misconduct), which may lead to disciplinary action being instituted against the employee in accordance with the Council's Disciplinary Procedures.

Furthermore, employees need to be aware that conduct which is contrary to certain provisions of the Code (e.g. those dealing with unauthorised disclosure of confidential information) could, depending upon the precise circumstances of the case, also amount to an offence under the criminal law and thus result in prosecution of the employee concerned.

### **1.6. Interpretation**

The Code is to be interpreted in spirit as well as by the letter. An employee who is in any doubt as to whether a provision in the Code is applicable to their situation should, in the first instance, refer the matter to their manager.

## **2. Values and Behaviours**

The Council has adopted certain values – Accountability, Creativity, Learning and Encouraging, Collaborative and Trust - which are at the core of how staff and the organisation are expected to behave. These are key to delivering the Council's vision and are the qualities that we expect from all staff. All employees have a responsibility for ensuring that they are aware of the Behaviours which underpin these values and that they actively support and demonstrate these. Information is available on the intranet or through employee self-service.

## **3. Customer Service and Standards**

### **3.1. General**

Employees are expected to give the highest possible standard of service to the public and local community and to abide by the customer care standards set by the Council. Employees who, during their employment, have contact with the public, whether face to face, over the telephone or by way of written

correspondence should always ensure that they deal with the individual(s) in an efficient and courteous manner, irrespective of the circumstances.

### **3.2. Standards of Dress**

Employees should dress in a manner appropriate to their role to ensure, so far as is reasonably possible, that no offence is caused to individual members of the public, including members of minority groups. Employees should not wear any badges, jewellery or insignia which might give offence, or which could be taken to indicate that the wearer is a supporter of a particular political party or pressure group. Tattoos should not be displayed which give offence or indicate that the employee is a supporter of a particular political group.

### **3.3. Consumption of Alcohol and Drugs**

Employees should not consume any alcohol before or during their working day, including during their lunch break, if it is likely to have an adverse effect on their work or if it would be inappropriate. For employees whose role requires them to drive or operate machinery, then alcohol should not be consumed prior to driving or operating machinery. With the exception of prescription drugs, or pharmacy over the counter drugs, employees should not take drugs during work times.

### **3.4 Comments, compliments and complaints**

Employees who, during their employment, have contact with the public should familiarise themselves with the Council's comments, compliments and complaints policy and procedure and, where appropriate, bring the procedure to the attention of the public.

Employees should be prepared to disclose to any member of the public their name and position with the Council unless in any case they have genuine cause to believe that such disclosure might compromise their own personal safety.

### **3.5 Hours and attendance**

Reliability in time keeping, attendance and in reporting sickness are all critical to the success of Council services. Poor attendance and bad timekeeping increase costs, reduce service outputs and may undermine the reputation of the Council. Employees should ensure that they:

- Comply with the timekeeping requirement of their job ensuring accuracy of record keeping at all times.
- Are in the workplace and working when they should be
- Ask their manager if there is a need to take time off, for example for a doctor's visit

- Agree with their line manager in advance any leave or time off

### **3.6 Disciplinary standards**

These disciplinary standards apply to all Chelmsford City Council employees irrespective of the job they do or the grade they are on.

They should be read in conjunction with the Council's Disciplinary Procedure and this Code of Conduct

#### **Purpose behind the disciplinary standards**

The Council accepts that most of its employees can be relied on to conduct themselves in an exemplary manner, irrespective of formal rules. However, in a large organisation such as the Council it is necessary for there to be standards which:

Identifies conduct which is unacceptable to the Council as an employer,

Indicates the likely consequences of such conduct; and

Provides a framework for managers and employees that helps ensure that the required high standards of job performance and conduct are met and maintained

## **4. Disclosure and use of confidential information**

### **4.1. Information Security**

All employees are responsible for keeping personal data, which they access or process, secure and up to date. Line managers have responsibility for the type of personal data they collect and how they use it. Managers are also required to ensure that staff are appropriately trained on how to process personal information in line with the Data Protection Act 2018 and the General Data Protection Regulation 2016

Individuals who have access to personal data are required:

- to access only data that they have authority to access and only for authorised purposes;
- not to disclose data except to individuals (whether inside or outside the organisation) who have appropriate authorisation;
- to keep data secure (for example by complying with rules on access to premises, computer access, including password protection, and secure file storage and destruction);
- not to remove personal data, or devices containing or that can be used to access personal data, from the organisation's premises without adopting appropriate security measures (such as encryption or password protection) to secure the data and the device;

- not to store personal data on local drives or on personal devices that are used for work purposes; and
- to report data breaches of which they become aware to the Information Governance Team in line with the Council's Data Breach Policy and Procedure.

Failing to observe these requirements may amount to a disciplinary offence, which will be dealt with under the Council's disciplinary procedure. Significant or deliberate breaches of this policy, such as accessing employee or customer data without authorisation or a legitimate reason to do so, may constitute gross misconduct and could lead to dismissal without notice.

Employees should communicate with the Council's Monitoring Officer, or their own Service Manager to raise concerns regarding a breach of conduct or other issue of concern related to the delivery of the Council's responsibilities. In some cases, the appropriate disclosure route may be raised by using the Council's Whistleblowing procedure.

#### **4.2 Disclosure of criminal convictions during employment**

Employees who are convicted or cautioned for any offence during their employment (this includes outside of your working hours) with the Council are required to immediately notify their line manager in writing of the offence and the penalty.

This includes motoring offences which result in a court action and a driving restriction but not parking offences/fines where no penalty points are incurred. The effect of any conviction or caution will be considered with regard to the post occupied and the nature and severity of the offence and penalty. Any action that may be taken by the Council will be in accordance with the disciplinary procedure.

#### **4.3. Use of Information by Employees**

Employees should never use confidential or sensitive information obtained by them during their employment for personal gain or benefit.

### **5. Equality, diversity and inclusion**

All members of the local community, customers and our employees have a right to be treated with fairness and respect.

The Council is fully committed to the elimination of unlawful and unfair discrimination and values the differences that a diverse workforce brings to the organisation. The Council aims to create a work environment where everyone is treated with dignity and respect.

The Council will not discriminate because of age, disability, gender reassignment,

marriage and civil partnership, pregnancy and maternity, race (which includes colour, nationality and ethnic or national origins), religion or belief, sex or sexual orientation. It will not discriminate because of any other irrelevant factor and will build a culture that values meritocracy, openness, fairness and transparency.

All employees are responsible for the promotion and advancement of equality, diversity and inclusion. Behaviour, actions or words that transgress the Equality, Diversity and Inclusion policy will not be tolerated and will be dealt with in line with the Council's bullying and harassment and disciplinary policies, and this Code of Conduct.

## **6. Political neutrality**

### **6.1. When Carrying Out Work**

Employees (whether or not their post is designated as politically restricted) should follow every lawful expressed policy of the Council and should not allow their own personal or political opinions to interfere with or influence their work.

### **6.2. Dealings with Elected Members**

Employees should bear in mind that they serve the Council as a whole. They therefore serve all Elected Members and not just those of the controlling group and should ensure that the individual rights of all Elected Members are respected. It must be ensured that working relationships are kept on a professional basis.

### **6.3. Political Assistants**

Political assistants appointed in accordance with the Local Government and Housing Act 1989 are exempt from the standards set out in paragraphs 6.1 and 6.2

## **7. Acceptance of gifts & hospitality**

### **7.1. General**

Except in the very limited circumstances employees should not accept any fees, gifts or other benefits on their own behalf or on behalf of a third party, from any member of the public, pressure group or other outside party. All employees are expected to make themselves aware of the guidance on the acceptance of gifts and hospitality which is available on the intranet or from HR.

### **7.2. Accepting Hospitality**

Employees should only accept offers of hospitality if these are occasions on which they are gathering, imparting or exchanging information or representing the Council. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the



Council should be seen to be represented. Attendance at such functions should be authorised in accordance with the procedure set out in the protocol for gifts and hospitality.

Employees should be aware that it is a serious criminal offence for them **corruptly** to receive any gift, loan, fee, reward or advantage **for doing, or not doing anything, or showing favour or disfavour to any person** in their official capacity. If an allegation is made then it is for the employee to demonstrate via an investigation process that any gift, loan, fee, reward received has not been corruptly obtained.

### **7.3. Giving of Hospitality**

The giving of hospitality to visiting individuals, and during meetings with outside individuals/organisations which take place off Council premises, is acceptable provided that

- (i) the visit/meeting relates to Council business; and
- (ii) such hospitality is of a kind and proportionate to the circumstances.

In some cases, it may well be wrong not to offer hospitality. For example, the failure to offer a visitor basic refreshment (i.e. tea/coffee) would, in certain circumstances, be construed as discourteous, and possibly contrary to the Council's customer care ethos. Similarly, in the case of lengthy meetings the provision of a "working lunch" may well be appropriate. Hospitality should never be lavish or extravagant and should be proportionate to our role as public body. Employees should always have regard to how such hospitality might be perceived by members of the public - bearing in mind the Council is a public body funded in the main by local and central government taxation, and the need for impartiality in relations with contractors and potential contractors.

## **8. Personal interests - disclosure etc**

### **8.1. The Underlying Principle**

Employees should never use their positions with the Council to seek special favour or preferential treatment for themselves, or friends or relatives. Equally important, employees should not allow the impression to be created that they are, or may be, using their position to promote private or personal interests.

### **8.2. Disclosure Generally**

Employees should disclose, in writing, to their manager any personal interest (whether financial or non-financial in nature) which may affect, or be considered by others to affect, an employee's impartiality in any matter relevant to his/her duties. Employees should make themselves aware of the guidance on registering

their interests. The manager should ensure that the disclosure is recorded in the register of interests maintained by Democratic Services.

Note: Non-financial interests could, for example, include involvement with an organisation receiving grant aid from the Council, or involvement with an organisation or pressure group which is seeking to influence or change the Council's policies.

### **8.3. Statutory Duty to Disclose any Financial Interest in Contract**

Employees must be aware that by law (Section 117 of the Local Government Act 1972) they are required to disclose in writing to the Council any financial interest, whether direct or indirect, which they have in any contract which, to their knowledge, has been, or is proposed to be entered into by the Council. Failure to disclose such an interest is a serious criminal offence.

Democratic Services maintains a register for the disclosure of financial (pecuniary) interests. This register is open to inspection by the public.

Employees who are not sure whether disclosure is required should initially refer the matter to their manager.

## **9. Relations with outside contractors and proposed contractors**

### **9.1. Familiarity with Contract Rules etc.**

Employees who make or advise on purchasing decisions or are otherwise involved in the ordering of goods or services on behalf of the Council must ensure that they are familiar with the Council's Contract Rules and Financial Regulations relating to contracts and orders.

### **9.2. Awarding of Contracts and Orders**

Employees who make purchasing decisions, or who are otherwise involved in the ordering of good or services on behalf of the Council, must ensure that orders and contracts are awarded strictly in accordance with the Council's Contract Rules and that no special favour is shown, or preferential treatment given, to businesses run by partners, relatives, friends or former employees.

All employees should be familiar with the requirements of the Bribery Act and the Anti-Bribery and Corruption policy. The Council is committed to protecting the public purse and the services it provides from being abused.

We require that all staff, including those permanently employed, temporary agency staff and contractors:

- act honestly and with integrity always and safeguard the organisation's resources for which they are responsible

- comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates, in respect of the lawful and responsible conduct of activities.

The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Authority.

The Council's expectation of propriety and accountability is that staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

The Council also expects that individuals and organisations with which it comes into contact will act towards the Authority with integrity.

### **9.3. Disclosure of Private Work Carried out by Contractors - The General Principle**

Corporate Directors, Service Managers, and any other employees who are involved in purchasing decisions (including the selection of persons invited to tender, and the evaluation of tenders etc) and who have, or have had, a private business relationship (as defined below) with a person or company whom they know has or is seeking to have a contractual relationship with the Council (whether for the supply of goods, services or construction works) should disclose that fact in writing to Democratic Services.

Democratic Services shall record the disclosure in a register which is kept for that purpose and which is open to inspection by the public.

#### **Definition of Private Business Relationship**

An employee shall be taken to have a private business relationship with a person or company if that person or company has been engaged to carry out work to the employee's home or that of his/her family or close friend(s); or to supply any goods or services to the employee or his/her family or close friend(s).

### **9.4. Exceptions**

This part of the Code shall not, however, be taken as requiring an employee to disclose a private business relationship with:

- (1) any public utility company or statutory undertakers (e.g. British Telecommunications Plc, Eastern Electricity, rail operators and other public transport companies) where work done, or goods/services supplied is a kind which is provided or made available to a large section of the general population.

(2) any bank or similar financial institution where the services provided are of a kind commonly provided or made available to other customers of the bank/institution.

(3) any retail store or outlet (e.g. a supermarket or bookshop) where the private business relationship has arisen solely because the employee has purchased from the store/outlet (during its opening hours) goods or services which, at the time of purchase were on display or offer to the public at the same price and on the same terms.

### **9.5. Employees Who Supervise Contracts**

Employees who supervise contractors should disclose in writing to Democratic Services any private business relationship (as defined in 9.3 above) which they have, or have had, with any of the contractors which come within their supervision. Democratic Services shall record the disclosure in a register which is kept for that purpose and which is open to inspection by the public.

## **10. Outside commitments**

All employees should not engage in any outside work which means any paid or unpaid work including voluntary work which conflicts or may conflict with the Council's interests.

An employee who wishes to take up outside work, whether paid or unpaid, must obtain approval before accepting. A proforma for this purpose can be found in Appendix I.

If an employee already has other employment or commitments when they join the Council, including volunteering, they must make this known to their manager who must ensure that they are fully able to undertake their contractual duties.

The Council has an obligation to protect the welfare of its employees. When considering other work, all employees must comply with the Working Time Regulations which govern the total number of hours that can be safely worked as well as ensure that the required rest breaks under regulation can be taken

An employee undertaking secondary employment outside of the Council must complete a Working Hours declaration to ensure that the hours worked in total are permitted under legislation including required rest breaks.

An employee who works in more than one role for the Council will be required to comply with Working Time regulation in relation to hours work and to ensure that required rest breaks are taken.

## **11. Separation of roles during tendering**

### **11.1. Separation of Roles**

Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Council. Senior employees who have both client and contractor responsibilities must be aware of the need for accountability and openness.

### **11.2. Fairness and Impartiality**

Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

## **12. Use of resources and council property etc**

### **12.1. Use of Resources**

Employees must ensure that they use public funds and resources entrusted to them in a responsible manner. They should always ensure value for money to the local community.

### **12.2. Commitment to the environment**

The Council declared a climate and ecological emergency in July 2019 and expects its employees to consider the environmental impact of their actions and behaviour and, in particular, to contribute to reducing waste and reducing carbon emissions where possible when at work

### **12.3. Use of Council Property Etc**

Except for cars provided in accordance with the staff car-lease scheme employees should not use Council property, equipment (including computer/word processing hardware and specialist software) and materials for their own personal gain or private purposes with the exception of accessing the internet during non-working time lunch breaks in accordance with the Council's Acceptable Use policy.

### **12.4. Security, health and safety**

Employees should be mindful of the constant need to ensure, so far as is practicable, the security and health and safety of their fellow employees, and the safeguarding of Council property and buildings. Each employee should endeavour to avoid acts or omissions on their own part which may be prejudicial to, or compromise, health, safety and security.

## **13. Close Personal Relationships at Work**

### **13.1 Recruitment**

Employees involved in recruitment must ensure that appointments are made based on merit. To avoid any possible accusation of bias, an employee must not be involved in making an appointment if they are related to, or have a close personal relationship with an applicant, in accordance with the Employment Rules in the Authority's Constitution

### **13.2 Other Employment Matters**

Employees must not be involved in decisions relating to disciplinary, grievance, promotion or payment related matters, which relate to someone with whom they have a close personal relationship

### **13.3 Relations with Other Employees**

Mutual respect and professional conduct between colleagues are essential to good local government. Employees are required to act in a professional manner and not allow personal relationships to impact on their work and professionalism.

Employees are asked to complete a declaration form regarding Close Personal Relationships at work, following which an assessment will be undertaken to set out arrangements to protect both the employee and the Council.

The Council reserves the right to address any issues arising from close personal relationships at work that cause ongoing work issues and take appropriate action to resolve the issue.

## **14 Social media, communications and working with the media**

### **14.1 Social media**

#### **Using Social media on behalf of the Council**

When engaging with customers or organisations on behalf of the Council through Social Media, employees should always remember that they are representing the Council. Employees should represent the Council ethically and with honesty and integrity.

#### **Personal social media use**

Employees should not post anything that could adversely affect the image of the Council or have the potential to do so. Employees must not breach

confidentiality by divulging any personal or sensitive information through social media.

## **14.2 Communications and publication**

Employees must not publicise material which is confidential or against the Council's or our employee's interests.

## **14.3 Working and contact with the media**

Employees should not speak, write, give interviews or take phone calls for information unless the communications team and your manager have given you permission to do so or unless this is part of your role for the Council.

## **15. Safeguarding**

The Council provides a wide range of services and facilities and will promote the welfare and protection of children and adults at risk within all services by:

- Respecting the rights, wishes, feelings and privacy of children and adults.
- Taking seriously and responding appropriately and promptly to all concerns, incidents and allegations.
- Requiring organisations that the Council contracts to provide the Council with services, to have appropriate safeguarding procedures and training in place and adopt the Safeguarding policy.
- Ensuring that unsuitable people are prevented from working with children and adults at risk through the Council's Safer Recruitment Procedure.
- Not tolerating harassment of any Council employees, elected Members, contractors, agency staff, volunteers, suppliers, consultants or children/adults who raise concerns of abuse.
- Seeking to prevent abuse by promoting good practice, creating a safe and healthy environment and avoiding situations where abuse or allegations of abuse occur.

It is expected that all employees:

- Understand the different forms abuse as well as their roles and responsibilities under this Code of Conduct and the Safeguarding Policy.
- Know how to record and report safeguarding concerns, incidents or allegations.

## **16. Generally**

If an employee has any doubt as to whether any action taken or contemplated on his/her part, or on the part of a third party, is likely to result or has resulted in a breach of this Code of Conduct then he/she should discuss the matter with his/her manager or Human Resources as soon as possible.

Relevant information to support this Code of Conduct is available on the intranet or via your line manager including the following:

- Financial regulation
- Employment policies and procedures
- Health and Safety responsibilities
- Safeguarding
- Data and Information
- Council Constitution



## REGISTRATION OF OFFICER INTERESTS

[Guidance on the registration of interests](#)

|                          |  |
|--------------------------|--|
| Your name                |  |
| Your Directorate         |  |
| Your Service             |  |
| Your line manager's name |  |

I register the following interests pursuant to Section 117 of the Local Government Act 1972 and the Council's Employees Code of Conduct:

| Interest |  |
|----------|--|
| 1.       | <p>Your membership of or the fact that you are in a position of general management and control of a body that falls within one or more of the following descriptions:</p> <ul style="list-style-type: none"> <li>a. to which you have been appointed or nominated by the City Council</li> <li>b. exercising functions of a public nature</li> <li>c. directed towards charitable purposes</li> </ul> <p><i>The descriptions identified are alternatives, therefore you need to register any interests that falls within any of the descriptions in (a), (b) or (c). Under <b>paragraph (a)</b> there are a number of bodies to which the Council makes officer appointments such as Bradwell Local Community Liaison Council and the Essex Society for Archaeology and History. The organisations that should be included in <b>paragraph (b)</b> include those that lobby government to make changes to policy or laws, for example, an active member of the National Trust or AA which may seek to influence public policy. Under <b>paragraph (c)</b> this includes not only registered charities but other organisations that raise funds for charities such as Freemasons.</i></p> |
|          | <p><b>Details</b></p>  |

|    |   |
|----|---|
| 2. | <p>Any body of which you are a member or to which you have been elected personally or professionally:</p> <p>(a) receiving grant aid from the Council; or</p> <p>(b) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).</p>   |
|    | <p><b>Details</b></p>   |
| 3. | <p>Any pecuniary interest, direct or indirect, which you have in any contract, which has been or is proposed to be entered into by Chelmsford City Council</p> <p><i>If you have entered into any form of contract with the Council for the supply of goods or services this should be entered here <b>but only if</b> there are still obligations to be fulfilled such as payments to be made or services to be provided. Examples are:</i></p> <ul style="list-style-type: none"> <li>- <i>Use of Council commercial waste collection facilities by a body or company which you own.</i></li> <li>- <i>Use of the Council's Building Control Team's services in relation to works at any property owned by a body/company in which you have an interest.</i></li> </ul> |
|    | <p><b>Details</b></p>   |
| 4. | <p>Any body of which you are a member.</p> <p>Any firm in which you are a partner.</p> <p>A company of which you or a close relative are a remunerated director.</p> <p>A company run by a relative, friend, partner, or former employee or yours which has or is tendering for a contractual relationship with Chelmsford City Council (whether for the supply of goods, services or construction work).</p>   |
|    | <p><b>Details</b></p>   |

|    |   |
|----|---|
| 5. | Any work or services provided to you in a private capacity (a private business relationship) by any business, partnership or sole trader which has tendered or is tendering for a contractual relationship with Chelmsford City Council (whether for the supply of goods, services or construction work). |
|    | <b>Details</b>  |
| 6. | Any employment or business carried on by you in addition to your employment by Chelmsford City Council.   |
|    | <b>Details</b>  |
| 7. | Any organisation of which you are a member to which you have been elected or appointed professionally or personally which the Council could from time to time have any dealings with that are not covered in other categories above.  |
|    | <b>Details</b>  |

Your signature: .....

Date: .....

Your line manager's signature: .....

Date: .....

Monitoring Officer's signature: .....

Date: .....

## **Guidance Notes for Authorisation**

Directors should consider the following:

- Does the additional employment conflict with the Council's interests i.e. benefitting from position of being a Council employee e.g. tendering for business?
- Does the additional employment conflict with the working time agreement e.g. the employee should not be working 7 days a week and must ensure that they can have the prescribed rest hours? Should the additional employment result in the employee working more than 48 hours a week, an opt out form should be completed.
- Could the business interest be seen to be promoted by their position within the Council?
- Does the contract preclude the member of staff from having additional employment or a secondary business interest?

| Version Number | Creation Date | Changes Made                         | Changes Made By: | Authorised/Checked? | Date of Changes |
|----------------|---------------|--------------------------------------|------------------|---------------------|-----------------|
| 2.6            | Jan 2011      | Amended to Disability Confident Logo | HR Team          | Y                   | 05/12/2016      |
| 2.5            | Jan 2011      | Updated to reflect new HR structure  | J Ferguson       | Y                   | 17/09/2015      |
| 2.4            | Jan 2011      | Corrected reference errors in 6.3    | H Dungate        | Y                   | 30/09/2014      |
| 2.3            | Jan 2011      | Safeguarding Element added           | A Price          | Y                   | 31/10/2012      |

PART 5.7

PROTOCOL ON THE PRODUCTION

AND

CONTENT OF MINUTES OF MEETINGS

5.7.1. Purpose

This protocol sets out formally:

- (a) the principles and procedures for the drafting, clearing and publication of minutes of formal meetings of Chelmsford City Council; and
- (b) guidance on the content of minutes.

5.7.2. Meetings to which the Protocol Relates

5.7.2.1 In this protocol “meetings” refers to meetings of the following bodies:

- (a) Chelmsford City Council;
- (b) those bodies to which members are formally appointed at the Annual Meeting, i.e. the Cabinet and its committees and non-Executive Committees and their sub-committees; and
- (c) any bodies of that nature established between Annual Meetings.

5.7.2.2 The records of meetings of working groups/parties and panels, or of joint meetings where Chelmsford City Council Legal and Democratic Services are responsible for the minutes, whether or not members are appointed to them, need not follow the arrangements described in this protocol.

5.7.3. Production of Minutes

5.7.3.1. **Responsibility**

The production of minutes of meetings will be the responsibility of staff of Legal and Democratic Services only (referred to in this Protocol as the committee administrator”).

5.7.3.2 **Timescales**

The normal timescales for the production of minutes will be:

- (a) draft minutes - within three working days of the meeting;
- (b) publication on the Council’s website of the final draft – within seven working days of the meeting.

5.7.3.3 **Clearance**

To reinforce the role of the committee administrator as an impartial recorder and interpreter of decisions taken at a meeting, the drafts of minutes will only be cleared with:

- (a) the Monitoring Officer, if they or their representative was present at the meeting; or

- (b) the Legal and Democratic Services Manager, if they or their legal representative was present at the meeting; or
- (c) another senior officer present at the meeting if neither (a) nor (b) was present.

No councillor will be consulted on the wording of draft minutes.

5.7.3.4. In exceptional circumstances other officers who were present at the meeting may be consulted on a draft minute to clarify complex or technical information reported at the meeting which needs to be included in the minutes.

5.7.3.5. To avoid any uncertainty among those present at the meeting, it will be the responsibility of the committee administrator to seek clarification of any decision or amendment before or at the time of it being put to the vote or agreed, where, in the view of the committee administrator, there exists any doubt or confusion about what the committee has decided or has been asked to decide.

#### 5.7.4. Status of published draft/approved minutes

5.7.4.1 The published minutes of a meeting will be regarded as an unofficial record of the meeting until they are formally approved by the next available meeting of the relevant body, although in the meantime the decisions taken will in normal circumstances have been implemented.

5.7.4.2 Once agreed by the body, the minutes will be regarded for legal purposes as the only formal record of the meeting. The committee administrator will, at that point and to avoid any subsequent questions of interpretation of a decision, destroy any notes they took at the meeting on which the minutes were based.

5.7.4.3 Where a change to the minutes is made at the meeting at which they are signed, the amended record will be published on the website and the changes written by hand on the paper copy signed by the chair.

#### 5.7.5. Content of a Minute

5.7.5.1. The minutes of a meeting will typically comprise the following:

- (a) where appropriate, a reference number for any previous minute on the subject;
- (b) a note of any declaration of interest in the subject made at or before the meeting;
- (c) a preamble, consisting of a brief summary of the subject of the minute;



- (d) in the case of minutes of the Cabinet, an outline of the options available in making a decision on the subject, a note of the option chosen and the reasons for choosing it;
- (e) a record of any discussion on the subject. That record will include:
  - (i) any additional information (either written or oral) presented at the meeting not contained in the report on the subject. This might be a full or summarised record of the information presented;
  - (ii) any amendments formally moved by members and a note of whether or not they were approved;
  - (iii) apart from formal amendments, any general discussion on the subject which has a bearing on or which, in the view of the committee administrator, will enhance a reader's understanding of the reasons for a decision.
- (f) if requested under the relevant Rules of Procedure, a record of the vote taken on the subject or the names of members who indicate their wish that the minutes record how they voted; and
- (g) the full resolution on the subject, incorporating any amendments made to a recommendation or motion, and worded in such a way as to be clear, with minimal reference to other written records, the meeting's decision and intentions.

5.7.5.2 The names of individual members will not be recorded as part of the discussion on a subject unless they move a formal motion or amendment.

5.7.5.3 Minutes covered by the Protocol will indicate the time when a Councillor arrives if it is after the meeting has commenced or the time they leave if it is before the meeting has closed.

5.7.5.4. Minutes will indicate the time consideration of an individual item commences.

#### 5.7.6. Record of Questions/Statements

5.7.6.1 Where councillors, who are not members of the body, are allowed to ask questions or make statements at the meeting, the minutes will provide a fair and coherent summary of any question and the response given. The names of individual members will not normally be recorded as part of the discussion. In the case of Council meetings, questions to Cabinet Members and the responses given will, as far as possible, be recorded in full.

5.7.6.2 A record of any questions asked or statements made by the public at a meeting will normally provide a brief outline of the question or statement and short but coherent summary of the response given.

- 5.7.6.3 Each body may have its own conventions as to where, other than under the item “Public Question Time”, details of the questions and statements should appear in the minutes but all will follow the above principles.
- 5.7.6.4 In exceptional circumstances a question on a matter of particular importance or wide public concern, and the answer given to it, may justify a fuller record but this will be at the discretion of the Legal & Democratic Services Manager in consultation with other relevant officers.

## PART 6

# MEMBERS' ALLOWANCES SCHEME

The sums detailed in this Scheme apply from 15 May 2024.

## **Contents**

|            |   |        |
|------------|---|--------|
| 6.0        | Introduction                                      | Page 3 |
| 6.1        | Allowances paid to Councillors                    | Page 3 |
| 6.2        | Payment   | Page 4 |
| 6.3        | Renunciation                                      | Page 4 |
| 6.4        | Part-Year Entitlements                            | Page 4 |
| 6.5        | Travelling and Subsistence and Carer's Allowances | Page 4 |
| 6.6        | Indexation  | Page 4 |
| 6.7        | Suspended Members                                 | Page 5 |
| 6.8        | Travelling and Subsistence Allowances             | Page 5 |
| Appendix 1 | Approved Duties                                   | Page 8 |

**6.0 Chelmsford City Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003 hereby makes the following Scheme:**

6.0.1 The Scheme may be cited as the Chelmsford City Council Members' Allowances Scheme, and shall have effect for the year commencing 1st April, 2023 to 31st March, 2024 (subject, if relevant, to the amendment of allowances linked to the local government pay award, when it is agreed).

**6.0.2 Definitions**

6.0.2.1 In this Scheme:

- a) "councillor" means an elected member of the Chelmsford City Council;
- b) "approved duties" means any qualifying duty listed in Appendix 1 to this Scheme.

6.0.2.2 Other duties may be approved by the Legal and Democratic Services Manager but only in advance of the event concerned taking place.

**6.1 ALLOWANCES PAID TO COUNCILLORS**

**6.1.1 Basic Allowance**

6.1.1.1 A basic allowance shall be paid to each councillor at a rate of **£6,810** for each year.

**6.1.2 Special Responsibility Allowance**

6.1.2.1 In addition to the payment of the Basic Allowance, councillors undertaking special responsibilities shall be paid, for the period from their appointment to those positions to the next Annual Meeting of the Council, a Special Responsibility Allowance as follows:

|           |   |         |
|-----------|---|---------|
| 6.1.2.1.1 | Leader of the Council                         | £26,727 |
|           | Deputy Leader of the Council                  | £17,631 |
|           | Cabinet Member                                | £13,362 |
|           | Cabinet Deputy                                | £6,681  |
|           | Chair of Planning Committee                   | £8,820  |
|           | Vice Chair of Planning Committee              | £4,410  |
|           | Chair of Chelmsford Policy Board              | £8,820  |
|           | Chair of Overview and Scrutiny Committee      | £6,681  |
|           | Vice Chair of Overview and Scrutiny Committee | £3,339  |
|           | Chair of Governance Committee                 | £1,341  |
|           | Chair of Audit Committee                      | £1,341  |
|           | Chair of Licensing and Regulatory Committee   | £6,681  |
|           | Leader of major opposition political group    | £8,820  |
|           | Leader of smaller political group             | £1,341  |
|           | Mayor   | £14,412 |
|           | Deputy Mayor                                  | £4,803  |

6.1.2.2 Each of the Independent Persons appointed under the Localism Act 2011 will be entitled to claim an allowance equivalent to 10% of the Basic Allowance.

6.1.2.3 Each of the Independent Persons appointed to the Audit and Risk Committee will be entitled to claim an allowance equivalent to 10% of the Basic Allowance.

## **6.2 PAYMENT**

6.2.1 The Basic Allowance and Special Responsibility Allowance shall be paid in twelve equal instalments (as far as possible) on the last working day of each month or thereabout, subject to compliance with the part-year payment provisions set out below.

## **6.3 RENUNCIATION**

6.3.1 A councillor may by notice in writing given to the Chief Executive elect to forego any part of their entitlement to allowances payable under this Scheme.

## **6.4 PART-YEAR ENTITLEMENTS**

6.4.1 If the term of office or duties undertaken by a Councillor begins or ends part way through a year, or if amendment of the scheme during a year changes the amount to which a Councillor is entitled, then calculation of the allowance payable shall be on a pro-rata basis having regard to the proportion that the term of office, period of duty or relevant period of the scheme bears to the years in which it occurs.

## **6.5 TRAVELLING AND SUBSISTENCE AND CARER'S ALLOWANCES**

6.5.1 Travelling, subsistence and carer's allowances in respect of approved duties undertaken by councillors are payable in accordance with the Schedule to this Scheme.

6.5.2 Reimbursement of expenditure incurred by members (a) in providing child care arrangements and (b) on professional care for elderly, sick or dependant relatives to facilitate their attendance at approved duties of the Council is provided in accordance with the Schedule to this Scheme. Such payments are not covered by any special exemptions for taxation purposes. They are treated as emoluments (remuneration) of the office and will be taxed accordingly.

6.5.3 Subsistence and carer's allowances will be based on the reimbursement of receipted actual expenditure, subject to the current maximum limit.

6.5.4 Approved travelling, subsistence and carer's allowance claims received no later than the 11th day of each month will be paid with that month's

annual allowance payment. Claims must be submitted within two months of the date of the approved duty concerned.

## **6.6** **INDEXATION**

6.6.1 The Basic Allowance, Special Responsibility Allowances and the maximum costs for the reimbursement of expenses under the Dependent Carers Allowance shall be increased annually in line with the annual NJC agreed percentage pay increase from the national date of implementation.

6.6.2 The travelling and maximum subsistence allowances shall be increased annually in line with the local government officers' allowances.

## **6.7** **SUSPENDED MEMBERS**

6.7.1 Where a councillor is suspended or partially suspended from their duties or responsibilities that part of any allowance paid to them during the period of suspension may be withheld, or be subject to repayment if the allowance has already been paid.

## **6.8** **TRAVELLING AND SUBSISTENCE ALLOWANCES**

### **6.8.0** **Schedule**

### **6.8.1** **Subsistence Allowances**

6.8.1.1 Day Subsistence Rates for Approved Duties Undertaken Outside the City

6.8.1.2 Payable on a meals basis relating to duties of four hours or more, the four-hour period to include time travelling to and from the member's normal place of residence, and which includes the periods of the day specified below:

|         |              |                       |        |
|---------|--------------|-----------------------|--------|
| 6.8.1.3 | Breakfast    | Before 11.00 am       | £6.45  |
|         | Lunch        | 12.00 noon to 2.00 pm | £8.91  |
|         | Tea          | 3.00 pm to 6.00 pm    | £3.52  |
|         | Evening Meal | Ending after 7.00 pm  | £11.03 |

6.8.1.4                      Overnight Absence

6.8.1.4.1                    Overnight absence from the usual place of residence £79.82 (£91.04 for overnight absence in London).

6.8.1.5                      Meals on Trains

6.8.1.5.1                    When main meals (ie, a full breakfast, lunch or dinner) are taken on trains during a period for which there is an entitlement to day subsistence, the reasonable cost of the meals (including VAT) may be reimbursed in full, within the limits specified below:

**6.8.2                      Travelling Allowances**

**6.8.2.1                    Public Transport**

6.8.2.1.1                    The rate of travel by public transport shall not exceed the amount of the ordinary fare or any available cheap fare.

**6.8.2.2                    Motor Cycle Allowance**

- a) for the use of a solo motor cycle of cylinder capacity not exceeding 150 cc, 8.5 pence per mile;
- b) for use of a solo motor cycle of cylinder capacity exceeding 150cc but not exceeding 500 cc, 12.3 pence per mile;
- c) for use of a solo motor cycle of cylinder capacity exceeding 500cc, 16.5 pence per mile;

**6.8.2.3                    Member's Motor Vehicles**

6.8.2.3.1                    For the use of a motor vehicle 45 pence per mile.

6.8.2.3.2                    That rate may be increased:

- a) in respect of the carriage of passengers, not exceeding 4, to whom a travelling allowance would otherwise be payable under any enactment, by not more than 3.0 pence per mile for the first passenger and 2.0 pence per mile for the second and subsequent passengers.
- b) by not more than the amount of any expenditure incurred on tolls, ferries or parking fees, including overnight garaging.

**6.8.2.4                    Taxi Fares**



6.8.2.4.1 Reimbursable in cases of urgency or where no public transport is reasonably available. In any other case the amount of the fare for travel by appropriate public transport should be claimed.

6.8.2.5 **Parking, etc**

6.8.2.5.1 Actual expenditure on parking fees for garaging where absence overnight is involved.

6.8.3 **Carer's Allowance**

6.8.3.1 **Child Care**

6.8.3.1.1 The scheme provides for the reimbursement of expenditure incurred by members in providing child care arrangements for children for whom they have a parental responsibility, to facilitate their attendance at approved duties of the Council in accordance with the following requirements:

- a) that payment is made to someone other than a partner or close relation;
- b) that payments are restricted to the care of children up to their 14th birthday who normally reside with the member;
- c) that no payments be made in respect of the care of children of compulsory school age during school hours except where the child is absent from school due to illness.

6.8.3.2 **Care of Dependents**

6.8.3.2.1 The reimbursement of expenditure on professional care for an elderly, sick or disabled dependant relative normally residing with the member and requiring constant care, to facilitate attendance at approved duties, subject to payments being restricted to agencies or persons qualified to provide the care other than close relations.

6.8.3.3 **General Conditions**

6.8.3.3.1 The following conditions will apply to both types of allowance:

- a) that payments are made on the basis of the reimbursement of actual expenditure incurred up to a maximum of
  - for child care, an hourly rate equivalent to the National Minimum

- Wage, depending on the age of the carer; and
  - for the care of a dependant relative, a rate of up to £15 per hour, adjusted annually in line with the annual pay award for officers.
- b) that claims are supported by an approved official receipt form signed by the carer and the member confirming the details of the expenditure and that it has been incurred in accordance with the scheme.

Appendix 1APPROVED DUTIES

Approved duties are those activities that qualify for the payment to elected members of travel, subsistence and dependant carer's allowances incurred in the course of performing those duties. They must relate to the discharge of the functions of the authority, of the Cabinet or of any of their committees or sub-committees.

| <b>Activities which qualify as approved duties</b>  | <b>Activities not to be regarded as approved duties</b>   |
|---|---|
| <p>1. The attendance at a meeting of the Council, the Cabinet and any committee of the Cabinet, any committee or sub-committee of the authority, or of any other body to which the authority makes appointments or nominations, or of any committee or sub-committee of such a body, provided the member has been appointed to that body by the Council</p> <p>2. The attendance at any other meeting, the holding of which is authorised by the Council, the Cabinet or a committee or sub-committee of the authority, including meetings of panels, working groups, and task and finish groups, provided it is a meeting to which at least two political groups have been invited to send or appoint representatives</p> <p>3. The attendance of a representative appointed by the Council at a meeting of any association of authorities of which the Council is a member.</p> <p>4. The carrying out of any other duty approved by the authority, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the authority or of any of its committees or sub-committees.</p> | <p>Ward councillor surgeries</p> <p>Attendance at parish council meetings</p> <p>Meetings of the political groups of the Council</p> <p>Attendance at Cabinet or committee meetings in a member's capacity as a ward councillor</p> <p>Attendance at meetings to which the member has not been formally appointed or authorised to attend by their Group or by a committee, Cabinet or Council</p> <p>Attendance at civic, ceremonial or social events unless they have been appointed to attend as an official representative of the Council</p> |
| <i>In the case of category 4, the activities and</i>  |   |

*functions which this Council regards as qualifying as approved duties are:*

(a) In a member's capacity as a chair, vice chair, Cabinet Member or official Opposition Group spokesman on a committee or Cabinet function, attendance at meetings with officers to discuss matters associated with the responsibilities of the committee or the Cabinet.

(b) Attendance at a committee meeting as an officially appointed substitute for another member.

(c) Attendance at training events organised by the Council, any of its member bodies or by an officer.

(d) Attendance at conferences and seminars, where the Council has been invited to send an official representative or where a member body authorises the attendance.

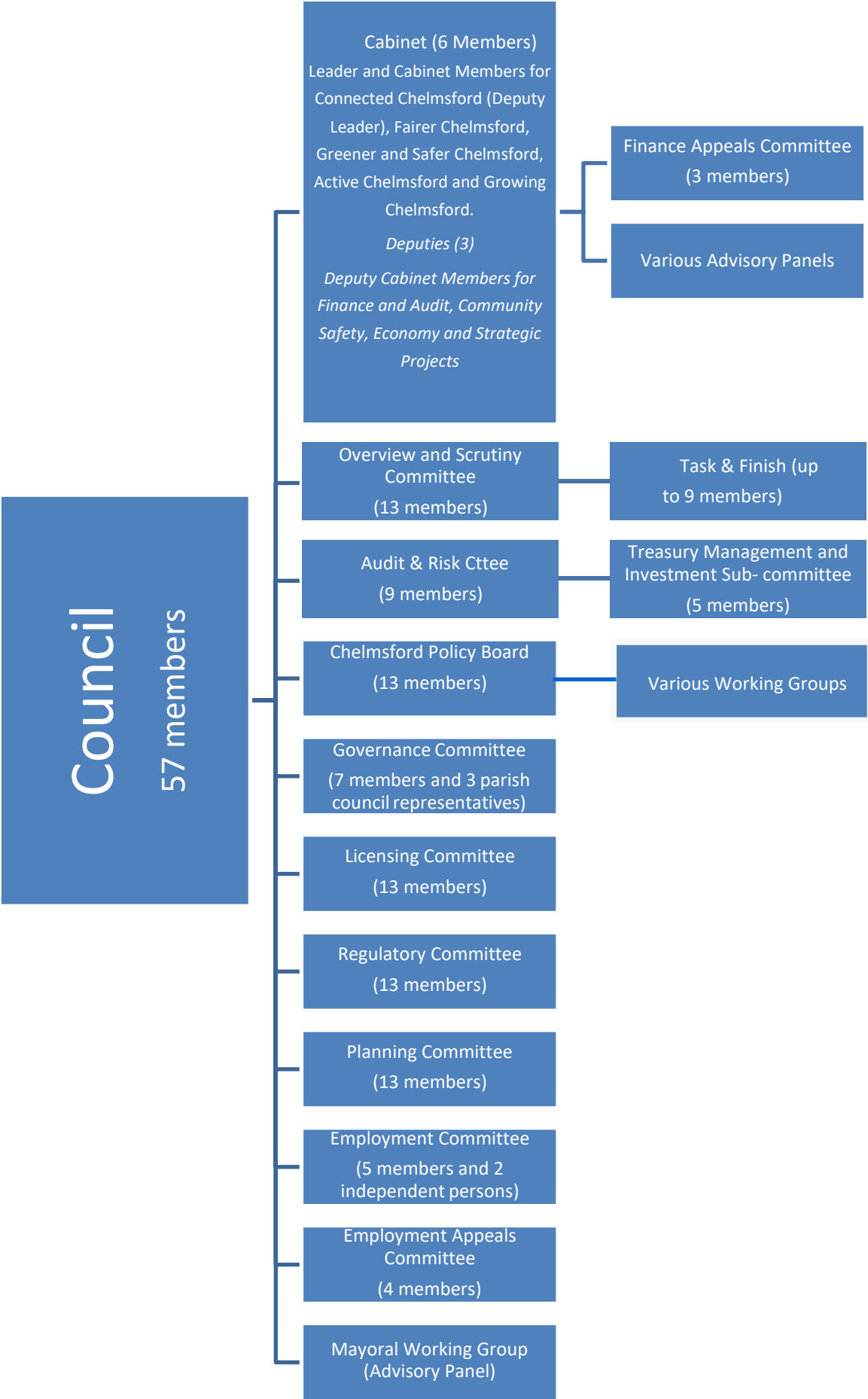
(e) Attendance at interview panels or other meetings held to short-list candidates for interview.

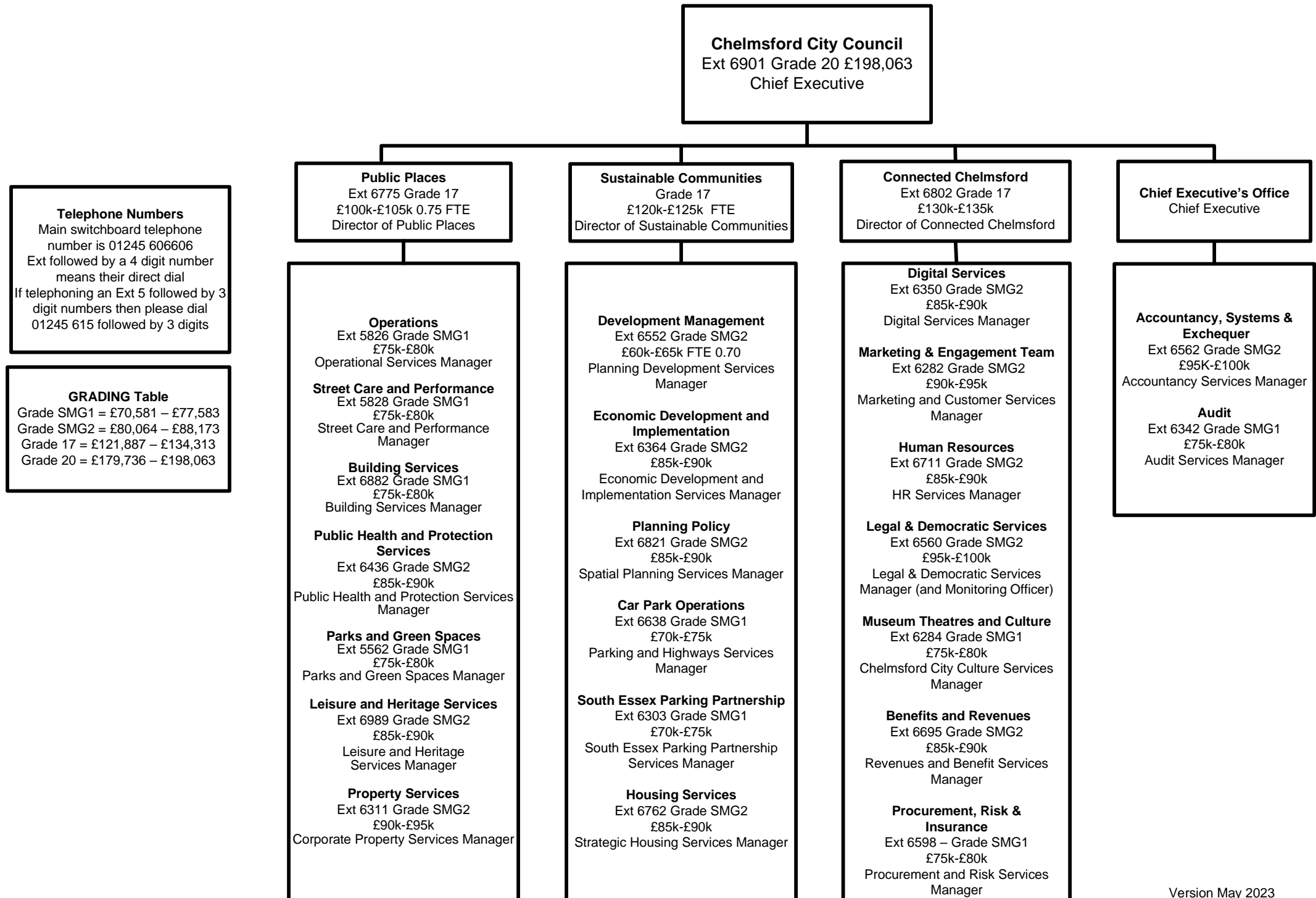
(f) The giving of official evidence on behalf of the Council at judicial hearing or planning inquiries.

(g) The attendance of a member of a committee at a site visit in connection with the discharge of that committee's functions.

|   |  |
|---|--|
| <p>(h) Attendance by any member at a meeting of the Overview and Scrutiny Committee, where that committee requires the attendance of that member.</p> |  |
|---|--|

PART 7.1 – CHELMSFORD CITY COUNCIL MEMBER BODIES STRUCTURE





## CONSTITUTION PRACTICE NOTE

### LIST OF DESIGNATED OFFICERS

| Part            | Rule Number | Designated Officer                    |
|-----------------|-------------|---------------------------------------|
| <b>Part 4.1</b> | 4.1.1.16    | Legal and Democratic Services Manager |
|                 | 4.1.2.1     | Legal and Democratic Services Manager |
|                 | 4.1.5.1     | Legal and Democratic Services Manager |
|                 | 4.1.10.7    | Legal and Democratic Services Manager |
|                 | 4.1.10.10   | Legal and Democratic Services Manager |
|                 | 4.1.10.15   | Legal and Democratic Services Manager |
|                 | 4.1.10.18   | Legal and Democratic Services Manager |
|                 | 4.1.11.1    | Legal and Democratic Services Manager |
|                 | 4.1.11.2    | Legal and Democratic Services Manager |
|                 | 4.1.11.4    | Chief Executive                       |
|                 | 4.1.11.8    | Legal and Democratic Services Manager |
|                 | 4.1.13.1(c) | Legal and Democratic Services Manager |
|                 | 4.1.19.3    | Legal and Democratic Services Manager |
|                 |             |                                       |
| <b>Part 4.2</b> | 4.2.1.1     | Legal and Democratic Services Manager |
|                 | 4.2.2.1     | Legal and Democratic Services Manager |
|                 | 4.2.2.3     | Legal and Democratic Services Manager |
|                 | 4.2.9.1(b)  | Chief Executive                       |
|                 | 4.2.9.1(c)  | Chief Executive                       |
|                 | 4.2.9.2     | Chief Executive                       |
|                 | 4.2.15.1    | Legal and Democratic Services Manager |
|                 | 4.2.16.1(d) | Legal and Democratic Services Manager |
|                 | 4.2.16.2(a) | Legal and Democratic Services Manager |
|                 | 4.2.16.9    | Legal and Democratic Services Manager |
|                 | 4.2.22.1    | Legal and Democratic Services Manager |



|                 |                   |                                       |
|-----------------|-------------------|---------------------------------------|
|                 | 4.2.23.2          | Legal and Democratic Services Manager |
|                 |                   |                                       |
| <b>Part 4.4</b> | 4.4.7.6           | Legal and Democratic Services Manager |
|                 |                   |                                       |
| <b>Part 4.5</b> | 4.5.4.3           | Legal and Democratic Services Manager |
|                 | 4.5.6.3           | Legal and Democratic Services Manager |
|                 | 4.5.8.2(b)        | Legal and Democratic Services Manager |
|                 | 4.5.9.1           | Legal and Democratic Services Manager |
|                 | 4.5.11.2(d)       | Legal and Democratic Services Manager |
|                 | 4.5.11.4          | Legal and Democratic Services Manager |
|                 | 4.5.11.5          | Legal and Democratic Services Manager |
|                 | 4.5.11.7          | Legal and Democratic Services Manager |
|                 | 4.5.11.8          | Legal and Democratic Services Manager |
|                 | 4.5.11.9          | Legal and Democratic Services Manager |
|                 | 4.5.12.2(a)       | Legal and Democratic Services Manager |
|                 |                   |                                       |
| <b>Part 4.6</b> | 4.6.3.1           | Legal and Democratic Services Manager |
|                 | 4.6.5.1(c)        | Legal and Democratic Services Manager |
|                 | 4.6.8.4           | Legal and Democratic Services Manager |
|                 | 4.6.11.1          | Legal and Democratic Services Manager |
|                 | 4.6.12.1(b) & (c) | Legal and Democratic Services Manager |
|                 | 4.6.14.1          | Legal and Democratic Services Manager |
|                 | 4.6.17.1          | Legal and Democratic Services Manager |
|                 | 4.6.17.3          | Legal and Democratic Services Manager |
|                 |                   |                                       |
| <b>Part 4.7</b> | 4.7.2.1(d)        | Legal and Democratic Services Manager |

## CONSTITUTION PRACTICE NOTE

### VACATION OF OFFICE BY FAILURE TO ATTEND MEETINGS

#### 1. The legal position for members generally

Section 85 of the Local Government Act 1972 provides:

- (1) Subject to subsections (2) and (3) below if a member of a local authority fails throughout a period of six consecutive months from the date of his/her last attendance to attend any meeting of the authority, he/she shall, unless the failure was due to some reason approved by the authority before the expiry of that period, cease to be a member of the authority.*
- (2) Attendance as a member at a meeting of any committee or sub-committee of the authority, or at a meeting of any joint committee, joint board or other body by whom for the time being any of the functions of the authority are being discharged, or who were appointed to advise the authority on any matter relating to the discharge of their functions and attendance as a representative of the authority at a meeting of any body of persons shall be deemed for the purposes of subsection (1) above to be attendance at a meeting of the authority.*
- (3) [Provides relief from disqualification to members of the armed forces engaged in war or an emergency].*

#### 2. Interpretation

There is no definitive legal authority upon whether 'attendance as a member' for the purposes of subsection (2) requires a councillor to be appointed to the committee, sub-committee or body in order for attendance at a meeting to be a qualifying attendance or whether attendance as a member of the local authority regardless of whether or not the councillor is appointed to the committee, sub-committee or body, is sufficient. Some local authorities take the narrow view and others the wider view.

In order to give members the maximum opportunity to preserve their qualification as a councillor, the City Council takes a wide interpretation of the law thereby acknowledging attendance at a qualifying meeting as a qualifying attendance whether or not the member has been appointed to the committee, sub-committee or body. To assist members further, the following are regarded as qualifying attendances for the purposes of Section 85:

1. Attendance as a member of the local authority at a meeting of the Council, any committee or sub-committee of the Council, the Cabinet, or any committee of the Cabinet, whether or not appointed to such body.

2. Attendance as a representative of the Council at any other body to which the Council makes appointments or nominations and to which a member has been appointed or nominated as a full or substitute member.
3. Attendance at any other meeting, the holding of which is authorised by the Council, any committee or sub-committee of the Council, the Leader of the Council, the Cabinet or any committee of the Cabinet including meetings of panels, working groups and task and finish groups.
4. Attendance as a representative appointed by the Council at a meeting of any association of authorities of which the Council is a member.
5. The carrying out of any other duty approved by the authority, or any duty of a class so approved, for the purposes of, or in connection with, the discharge of the functions of the authority or any of its committees or sub-committees.
6. Attendance at training events or briefings in relation to Council business for members organised by the Council.
7. Attendance at conferences and seminars where the Council has been invited to send an official representative or where a member body authorises the attendance.
8. Attendance at appointment panels or other meetings held to short-list candidates for interview.
9. The giving of official evidence on behalf of the Council at judicial hearings or planning inquiries.
10. Attendance of a member of a committee or sub-committee at an official site visit in connection with the discharge of the committee's or sub-committee's functions.
11. Attendance at the Overview and Scrutiny Committee where that committee requires the attendance of that member.

For the purposes of this practice note references to "meeting" will include meetings whether held in person, remotely or a hybrid meeting.

A record of members in attendance will be taken at every meeting clerked by Democratic Services. However, for any other qualifying attendances, members themselves must notify Democratic Services, unless alternative arrangements are made for notification to Democratic Services as to the members attendance (eg it is preferable for the officer who arranges a briefing to send a notification to Democratic Services listing all members who attended a particular event).

### **3. The legal position for executive members**

Section 85 of the Local Government Act 1972 provides:

*(2A) Subject to subsections (2B) and (3) if a member of a local authority which are operating executive arrangements, who is also a member of the executive of that local authority, fails throughout a period of six consecutive months from the date of his/her last attendance to attend any meeting of the executive, he/she shall, unless the failure was due to some reason approved by the local authority before the expiry of that period, cease to be a member of the local authority.*

*(2B) For the purposes of this section:*

- (a) The discharge by a member, acting alone, of any function which is the responsibility of the executive; and*
- (b) In respect of ... a leader and cabinet executive, attendance as a member at a meeting of a committee of the executive,*

*shall be deemed to be in attendance at a meeting of the executive.*

- (3) [Provides relief from disqualification to members of the armed forces engaged in war or an emergency].*

### **4. Interpretation**

For executive members the provisions are more stringent. Failure to attend the executive or an executive committee or failure to exercise a delegated executive power for six consecutive months renders an executive member disqualified as a member of the authority. Such member may have attended a Council meeting or a non-executive committee but that would not save the member from disqualification if the member had not attended an executive meeting for the requisite period.

Paragraph 2.7.3 of the Constitution provides that Cabinet Deputies are not to be regarded as Cabinet Members and therefore these particular provisions only apply to Cabinet Members.

A similar approach to interpretation will be taken in relation to Cabinet Members as is applied to other members generally. This will include the examples set out in this procedure note save for the fact that for attendance to count by a Cabinet Member under this specific requirement, the meeting must directly relate to the councillor's role as a cabinet member.

### **5. Relief from disqualification**

In the case of both members generally and executive members the authority has the ability to approve a reason for absence and to extend the time period. This may occur when a member is ill and requires a longer period than the six consecutive months in order to recover and be fit to resume their duties. It could also arise for work, family or caring related reasons such as a work secondment abroad, maternity/paternity leave or caring for a relative in another part of the country. Before

the six consecutive months expire a report will be submitted to the Council stating the reasons for approval of the absence and seeking an extension to the time limit. In genuine circumstances the Council is likely to approve the absence and allow an extension of the time limit usually up to another six months.

## **6. Assistance to members**

Disqualification is not discretionary and occurs by operation of law upon the expiry of the time period. Once a member has been rendered disqualified they must not attend any meeting or participate in any decision-making. To do so would raise questions as to the legality of any decision which could be declared null and void by a court.

Democratic Services maintain a record of attendance at committee meetings and if an absence of around four months occurs the member and their Group Leader will be notified. If a member is concerned about their situation they should contact the Monitoring Officer at the earliest possible moment. The Monitoring Officer will be pleased to advise on actions which a member may take to alleviate their predicament. Members should be mindful that the responsibility to attend meetings rests with each member alone.

This practice note has been produced by the Legal and Democratic Services Manager and Monitoring Officer who has responsibilities for the good governance of the authority and must advise the Council if, as a matter of operation of law, a member is disqualified.

The Chairman of the Governance Committee and the three Group Leaders have been consulted in its production.

Updated August 2021

## **Financial Regulations Practice Notes**

### **Contents**

|  |    |
|--|----|
| Practice Note 1 - Assets.....  | 2  |
| Practice Note 2 - Fraud and Corruption.....                                    | 7  |
| Practice Note 3 - Preparation of Budgets .....                                 | 9  |
| Practice Note 4 - Purchase Ordering, Invoice Payment & Procurement Cards ..... | 11 |
| Practice Note 5 - Budgetary Control.....                                       | 16 |
| Practice Note 6 - Insurance and Risk Management .....                          | 18 |
| Practice Note 7 - Contracts, External Partners and Third party working .....   | 20 |
| Practice Note 8 - Income Collection and Debt Management.....                   | 23 |
| Practice Note 9 - Project Appraisal Reviews .....                              | 25 |
| Practice note 10 – Financial Arrangements for Partnerships .....               | 26 |

## **Practice Note 1 - Assets**

### **1. This guidance is in relation to the following:-**

- Property, plant and equipment either owned, leased, hired or rented by the Council or from the Council
- Assets on loan to the Council (e.g. heritage assets) or from the Council
- Goods and materials held by the Council
- Cash held
- NB Digital Services determine the inventory, disposal and security processes for software and data, this note does not cover those issues. The acquisition of software is governed by financial procedures and requires consultation with digital services.

### **2. Outcomes to be achieved**

- All assets must be kept securely, and ensure their use is legal, properly authorised and provides value for money.
- The following databases should be kept up to date and reviewed annually to reflect changes in assets.
  - Asset register - held corporately and provides information in relation to non-current assets such as land, property and larger items of equipment, vehicles, plant and machinery. These will have been acquired with capital resources. This is held by accountancy and they should be notified of changes.
  - Leased and Hired assets (Right-of-use) register – held corporately and provides information in relation to those assets leased, hired or rented by the Council. This is held by accountancy and they should be notified of any changes.
  - Service inventories - maintained within the individual service areas and provide a list of smaller, less expensive items used to operate the service. These will have been acquired with revenue funding.
- Assets need to be acquired effectively making sure the Council has received value for money.
- All sensitive and privileged information is held securely and confidentially.

### **3. Key procedures to follow to achieve the above outcomes**

- All Chief Officers must make sure that:

- Leasing, Hiring or Renting
  - Section 151 must be notified of any intention of a service to lease, hire or rent property, plant equipment and software. There are complex regulations regarding such arrangements and they need to be resolved before entering agreements.
- Land & Buildings
  - Lessees and other occupiers of land are not allowed to take possession of or enter the land until a lease or agreement has been entered into. The lease or agreement must be agreed with the Property Services Manager, Legal and Democratic Services Manager and discussed with the Accountancy Services Manager (S151 Officer); All title deeds are passed to the Legal and Democratic Services Manager for safe keeping and details entered on the Leased and Hired assets register.
- Plant, Equipment Vehicles, and Software
  - Rental or lease agreements cannot be entered into without discussion and authorisation of the Accountancy Services Manager (S151 Officer). This covers any hire or finance agreement with a length longer than 1 year.
  - All rental or lease agreements entered into must be notified to the Accountancy Services Manager.
- Personal Use of Assets :
  - No Council asset is used personally by an employee without getting permission from their Chief Officer before their personal use; that any use of property by a service or establishment other than for direct service delivery is supported by documents identifying the terms, responsibilities and period of use.
- Cash
  - Cash held is to be kept to a minimum; petty cash is kept in a safe place, the petty cash account is maintained and reconciled. The Accountancy Services Manager (S151 Officer) is provided with a year-end certificate.
- Stocks
  - Stocks of goods and materials are maintained at an appropriate level, reporting on any surplus or deficiency identified, for example, during stocktaking and provide the Accountancy Services Manager (S151 Officer) with the year-end certificates of stock held.
- Assets Security
  - All Council owned moveable property and equipment shall be prominently marked with the name of the Council. Items on lease may



be required to display the owner's name. Chief Officers must make sure that the owner's wishes are complied with (also see insurance practice note).

- The security of all buildings and other assets under their control; the safe keeping of vehicles, equipment, furniture, stock, stores, and other property either belonging to the Council; or leased, hired or rented by the Council consulting the Accountancy Services Manager (S151 Officer) in any case where security is thought to be defective, or where they think special security arrangements may be needed.
  - Carrying keys to safes, and similar receptacles on the person of those responsible at all times, the loss of safe keys must be reported to the Accountancy Services Manager (S151 Officer) as soon as possible.
  - Reporting promptly the theft of any of our assets to the Procurement and Risk Services Manager.
  - Keeping an up-to-date list (inventory) of all material items of plant and equipment for their service.
  - They contact the Procurement and Risk Services Manager to make certain that all items are insured against damage, loss and theft (see practice note 6 Insurance and Risk Management).
  - Building surveys are undertaken to ensure that security measures such as CCTV and alarm systems are maintained and effective.
- Asset Disposal
    - Try to achieve best value on the disposal of surplus or redundant assets by seeking, where appropriate, advice from purchasing advisors on their disposal and by making the disposal process as open and competitive as possible.
    - They record all disposals, or part exchanges of assets. The disposal or part exchange should normally be by competitive tender or public auction, unless, after discussion with the Accountancy Services Manager (S151 Officer), Cabinet agrees otherwise.
    - Notify the Accountancy Services Manager (S151 Officer) that a sale has taken place so that the asset database can be updated or update their own service inventory.
    - Make sure that assets leased, hired or rented are returned in accordance with the terms of the agreements.
  - Leases, Hire Contracts and Rental Agreements
    - Ensure budgets are in place before the leasing review is undertaken and informal quotations are suggested in line with procurement practices.

- Consult with Accountancy Services regarding all new leases, hire contract and rental agreements so that a cost benefit analysis can be undertaken to evaluate the best funding method. The analysis will take into account qualitative factors as well as financial factors. The S151 Officer will make the final decision as to whether the item will be leased.
- Ensure that the Leased and Hired (Right-of-use) Assets Register is kept updated.
- Inform Accountancy services if considering renewing or extending an existing lease, hire contract or rental agreement.
- After sign off from the S151 Officer, the service can then proceed with raising the order within the financial system refer to practice note 4 for guidance on raising an order. Please check the coding with your capital accountant.
- Make sure that the assets are maintained in accordance with the lease, hire contract or rental agreement and are they fully aware of the conditions in relation to the use of the asset and the return.
- Make sure that the Procurement and Risk Services manager is informed of any insurance requirements.
- The Property Services Manager shall
  - Keep a database of property owned or used by the Council.
  - Keep information up to date in relation to each property and lease and notify the Accountancy Services manager of any changes to existing leases or new leases.
  - Maintain an up-to-date Asset Management Plan.
- The Procurement and Risk Services Manager shall
  - Inform the Capital Accountants in advance of all procurement involving a lease, hire contract or rental agreement.
- The Accountancy Services Manager (S151 Officer) shall
  - Make sure that the assets provide value for money by reviewing financing methods to ensure the best option is selected for the service and Council.
  - Make sure that an asset register is maintained in accordance with good practice for all fixed assets with a value over £10,000.
  - Receive the information required for accounting, costing, and financial records from each Chief Officer; make certain that assets are valued in accordance with current accounting requirements; and keep a database of property values owned or used by the Council.

- Will record those leases, hire contracts and rental agreements where they are longer than 365 days within a leasing list that will be kept by Accountancy Services (Leased and Hired assets register).
- Keep a database of all plant and machinery, and moveable assets owned or used by the Council purchased from capital funds.

## **Practice Note 2 - Fraud and Corruption**

### **1. Outcomes to be achieved**

- A basic understanding of:-
  - fraud and corruption;
  - how fraud and corruption can happen;
  - possible examples of fraud and corruption used by third parties and suppliers;
  - possible examples of employee behaviour that may indicate fraud;
  - the difference between fraud and error; and
  - how to report your concerns.

### **2. Key points to remember**

- Definition of fraud
  - The deliberate distortion of financial statements or other records by anybody internal or external to the authority that is carried out to conceal the misappropriation of assets or otherwise for gain.
- Definition of Corruption
  - The offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person.
- Fraud and corruption
  - Can arise by criminal or fraudulent activity, carelessness or incompetence resulting in records being in a state where it is difficult to find out if all assets can be accounted for.
- Possible examples of fraud and corruption used by third parties and suppliers where:
  - “Unusual” invoices from suppliers, possible duplicate invoices, invoices in advance of delivery of goods/services, invoices entering your name or organisation in an advertising journal, documents that are photocopied or lack essential information, manual adjustments, “free services”, “free trials” suspect wording “we agreed with you on the .....”, requests for bank details over the phone and Post office boxes as shipping or contact addresses.
  - Cyber-fraud risks: Officers must be alert to unusual correspondence from suppliers, by phone or email, especially where requests for a change of payment details or contact details are made – there have been examples

of fraudsters changing the correspondence email address and then some time later requesting a change to payment details.

- Employee behaviour that may possibly indicate fraud
  - Staff under stress without a high workload, first to arrive in the morning and last to leave at night, egotistical (e.g. scornful of system controls), a risk taker or rule breaker, reluctance to take leave, refusal of promotion, unexplained wealth, sudden change of lifestyle, new staff resigning quickly, cosy relationships with suppliers or contractors, suppliers or contractors who insist on dealing with only a particular member of staff, disgruntled at work, making unnecessary site visits, making longer visits than are necessary, a complainer who wants to beat the system, greedy, or is driven by genuine financial need.
- The difference between fraud and error
  - It is important to distinguish between an error and an irregularity. While we need to make sure the assets of the Council are protected, we also need to make sure we keep good working relationships with partners, suppliers and colleagues. Errors can be reduced by providing staff with clear objectives and instruction - and knowledge and training to do their jobs well. However, there is never any harm in double checking your concerns or asking a colleague for a second opinion.
- How to report your concerns
  - Immediately inform the Accountancy Services Manager (S151 Officer) and the Audit and Investigation Manager or follow the whistle blowing procedures to report suspicions of fraud or act of corruption.
  - The Accountancy Services Manager (S151 Officer) will inform the service Chief Officer where the fraud or act of corruption is suspected.

## **Practice Note 3 - Preparation of Budgets**

### **1. Outcomes to be achieved**

- The Council prepares a balanced budget (net expenditure is equal to council tax income) based on the latest information available.
- To identify and approve additional budgets that exceed the control budget or new capital schemes as agreed in the timetable.

### **2. Key procedures to follow to achieve the above outcomes**

- Revenue and Capital Expenditure
  - Chief Officers responsibilities:
    - Prepare and submit revenue and capital budgets they are responsible for in line with the procedures and timetable agreed by Management Team and Cabinet.
    - Make sure the budgets submitted are consistent with our corporate objectives.
    - Make sure they provide adequate explanations for changes to the budgets to their service accountant or capital accountant.
    - Produce an evaluation report for Cabinet on any proposal that involves a material change in policy or has a large financial effect, where this is greater than the officer and cabinet member virement delegation.
    - Where existing service provision requirements change (even if a legal requirement) and the existing service budget is insufficient, then the service manager should advise accountancy. The service will then need to seek approval for a virement (budget transfer) or supplementary estimate where a liability is likely to occur which would cause expenditure to exceed the approved estimate (see Financial Rules – Appendix 1 Virements and Supplementary estimates.
    - Make sure that stakeholders have been consulted in the preparation of bids for resource for new capital schemes. A standard bid form can be obtained from accountancy.
    - Get approval from Cabinet or Full Council for all new capital schemes including the revenue implications of the schemes. Once the scheme is approved it will be included in our capital programme and the revenue implications will be included in the revenue budget.
    - Spend capital budgets in line with the delegation approved for the budget. This may include once a budget is approved a further business case going to cabinet or Council.

- The Section 151 Officer responsibilities are as follows:
  - Get Cabinet approval to the guidelines for the development of the revenue and capital scheme budgets.
  - Identify a five-year medium term financial forecast of capital and revenue expenditure and funding.
  - The overall co-ordination of the revenue and capital budgets.
  - Seek approval for increases in revenue expenditure over the approved budget, in discussion with the relevant Cabinet Member, and the Cabinet Member for Fairer Chelmsford.
  - Provide advice on the available funding options for the budget, for example advice on central government funding, options for borrowing or income generation.
  - Get Cabinet approval for the coming year's original revenue and capital budgets, identifying, where appropriate, the implications for the level of council tax to be levied and reviewing the robustness of the budget and the adequacy of reserves.

## **Practice Note 4 - Purchase Ordering, Invoice Payment & Procurement Cards**

### **1. Outcomes to be achieved**

- All purchases made by the Council must be good value for money.
- All payments made must be recorded and processed through the Council's Finance system to make sure the financial records are complete and accurate.
- Orders must be marked as receipted or part receipted on the Council's Finance system as soon as the goods or services are supplied, to make certain that creditors accruals can be clearly identified on the Council's Finance system.
- Goods receipts should not be performed in advance of the receipt of goods or services as this authorises payment to be made to the supplier.
- The correct allocation code(s) must be provided by the person raising the order before completing the authorisation process.
- All undisputed invoices must be paid in thirty days of receipt, with the exception of the Small, and Medium Enterprises (SME) supplier invoices where the payment must be within ten days of the receipt of the undisputed invoice from the supplier.
- Where the invoice amount is disputed, the invoice should be marked as 'HELD' on the Council's Finance system until the dispute is resolved to make sure the payment is delayed.
- Where VAT is to be recovered a VAT invoice must be obtained before any payment is made.
- VAT must be accounted for correctly. Where an invoice has an error on the VAT, a new invoice and a credit note for cancellation of the original invoice must be obtained from the supplier.

### **2. Key procedures to follow to achieve the above outcomes**

- Chief Officers Responsibilities and those delegated by Chief Officers:
  - Notify the Accountancy Services Manager (S151 Officer) of the persons and their authorisation limits they have delegated to raise and authorise purchase orders or invoices in their area of responsibility.
  - Make sure the list of all officers delegated to authorise orders and their authorisation limit are made available to Officers via the intranet or on the financial system, and updated immediately to reflect any changes and sent to the Accountancy Services Manager (S151 Officer).



- Make sure all persons delegated to raise purchase orders, process invoices and authorise purchase orders and invoices in their area of responsibility have the level of knowledge and understanding needed to make certain they are capable of discharging their delegated duties in an effective manner.
- Make sure there is a clear segregation of duties in issuing and authorising purchase orders and processing invoices in their area of responsibility.
- Make sure the orders are marked as receipted or part receipted on the financial system as soon as the goods or services are supplied, subject to disputes.
- Make sure the orders are only marked as delivered on the Council's Finance system when the goods or services ordered are provided satisfactorily and that the delivery recorded on the Council's Finance system represents the correct proportion of the goods or services received.
- Outstanding orders are reviewed quarterly and removed from the Council's Finance system as appropriate.
- Ensure that procurement cards within their service are held and used only by the authorised officers, with appropriate monthly and transaction limits and that transactions are being reconciled regularly, that spend is appropriate and sufficient receipts retained to support VAT claims.
- Issuing Purchase Orders
  - Orders for the supply of goods or services and works must be issued before the supply.
  - An estimated date of goods delivery or period that the service is provided for should be included on all orders to support the management of order and year end commitment and accruals.
  - Ensure all orders are raised correctly and with sufficient line by line detail to enable accurate receipting and invoicing.
  - All orders and payment requests must be issued through the Council's Finance system.
  - Only place orders over the telephone or orally in exceptional circumstances. These must be confirmed by an official order as soon as possible and in any event no later than two working days. Such orders should be clearly marked 'Confirmation of Verbal Order'.
  - Do not enter into a lease, hire contract or rental agreement for example for the supply of vehicles, plant and equipment, without the approval of the Section 151 Officer

- Any purchase of IT hardware and software must be in line with the I.T. Procurement standard.
- The Procurement and Risk Manager must be notified, before any commitment is made, in excess of £25,000.
- Authorisation of Orders
  - The purpose of the authorisation of orders is to ensure that public money is being spent in line with corporate priorities and within the control environment set by the budget process, financial rules, scheme of delegation and the Council's procurement policies.
  - Authorisation is also a key part of the control environment to prevent fraud and error.
  - Only complete the authorisation process for orders that commit expenditure for the area of responsibility delegated to them by their Chief Officer. When the order is authorised, it may, once the goods or services are marked by the service as being received in a satisfactory condition, be paid without further discussion with the service.
  - Make sure the order being authorised is coded correctly and the individual lines on the order carry meaningful descriptions for goods or services being ordered.
  - Make sure the order being authorised
    - is necessary for service provision; and
    - processes have been followed to ensure it offers good value for money (is in line with the Council's Procurement policy).
  - Where a variation to the price or quantity of goods/service ordered is known in advance of receipt of the invoice, the service should amend the order and get the amendment authorised.
- Payment of Invoices
  - Invoices will only be paid where it is correctly formatted and there is an approved purchase order and relevant goods receipts.
  - Where an invoice exceeds the receipted or authorised amounts, Accounts Payable will refer the invoice back to the service to undertake appropriate checks and complete receipting or authorise the difference in expenditure.
  - Only complete the authorisation process for invoices that commit expenditure for the area of responsibility delegated to them by their Chief Officer.
  - Invoices must not be altered and in case of an error, a new invoice must be requested from the supplier.

- Only process invoices that are addressed to Chelmsford City Council (including the address) and show:
  - A unique invoice number
  - Name and address of the supplier
  - Vat registration number
  - Invoice Date
  - Tax point date (time of supply) if different from the invoice date
  - Description that is sufficient to identify the goods or services supplied
  - VAT rate applicable for each item on the invoice
- Faster & Non-invoice Payments
  - The Council has the facility to make faster and non-invoice payments where it is strictly necessary for operational reasons. These payments incur additional fees and so value for money must be considered.
  - Registered invoices can be paid via the bank to expedite payment – for these invoices all the above rules for approved purchase orders and goods receipting must be followed.
  - Payments where no invoice exists can only be made for payments to individuals or entities that cannot issue an invoice – a separate approval process exists for these.
  - Non-invoice payments can not be made where there is VAT to be paid.
  - Best endeavours are made to process faster payments on the same working day if all the requirements have been met. Where this is not possible, they will be paid the next working day.
- Procurement Cards
  - Procurement Cards provide a facility for officers to make in-store purchases as well as online purchases from suppliers where purchase ordering is difficult or inefficient.
  - The procurement card expenditure should be made in line with the code of conduct.
  - Procurement Cards should only be held and used by the named cardholder.
  - Procurement card transactions should be regularly reconciled by cardholders on the financial system.

- Reconciled transactions should be approved by designated managers who must check the appropriateness of the spend and the quality of attached receipts.
- Appropriate receipts must be included to allow for reclaim of VAT on purchases.

## **Practice Note 5 - Budgetary Control**

### **1. Outcomes to be achieved**

- The Council operates an effective budgetary control system. Revenue and Capital expenditure is regularly monitored within the finance system against the approved estimate and any large variances are identified.
- Monitoring figures for the Council as a whole are submitted to Members once a quarter.
- Any additional spend should be matched by increasing funding via a Supplementary estimate, Virement, Urgency Action or Cabinet report.
- All entries made on the Council's finance system must be valid and coded correctly.

### **2. Key procedures to follow to achieve the above outcomes**

- Cost Centre managers' responsibilities:
  - Make sure that there is an approved budget before committing any expenditure.
  - To ensure monitoring is effective, orders must be raised in advance of goods being received and orders removed from the financial system if no longer valid.
  - Make sure that all entries made on the Council's financial system for the expenditure codes that are under their area of responsibility are valid.
  - Supply detailed revenue and capital monitoring information to their Service Accountant or Capital Accountant using the Council's financial system on an agreed timetable with detailed explanations for all the large variances from the approved estimate and a plan of action to deal with them.
  - Get authorisation for any necessary virements (budget transfer), supplementary estimates, use of carry forward budgets (if available) or dedicated reserve transactions (see Financial Rules – Appendix 1 Virements and Supplementary estimates).
  - Make sure that a liability which would cause expenditure to go above an approved estimate is not incurred, unless this can be met by way of either a virement, supplementary estimate, use of carry forward budgets or a dedicated reserve (see Financial Rules – Appendix 1 Virements and Supplementary estimates).
  - Discuss with the Capital Accountants, where it seems the final capital cost of any scheme or replacement may go over the approved estimate by more than the lower of 10% or £50,000 and (or) following the practical

completion of each scheme. So appropriate reporting to members can be undertaken as necessary.

- Make sure that they understand what qualifies as capital expenditure:  
  
Capital expenditure relates to purchase or enhancement of assets which have a useful life in excess of 12 months. To be an enhancement the expenditure must either lengthen substantially the useful life of the asset or increase substantially its open market value. The Council's de minimis limit for expenditure to be considered as capital expenditure is £10,000.
- Chief Officers Responsibilities and those delegated by Chief Officers:
  - Make sure Cost Centre managers in their services have the knowledge and understanding needed to make sure they are able to carry out their responsibilities effectively.
  - Make sure there is a clear delegation of duties and allocated areas of responsibility in their service area.
  - Agree corrective action on potential variations against budget or performance including getting any necessary approvals for virement, supplementary estimate or use of carry forward reserves (see Financial Rules – Appendix 1 Virements and Supplementary estimates).
- The Section 151 Officer Responsibilities:
  - Co-ordination of the budgetary control process, bringing together the information supplied by services, preparing monitoring reports to Management Team on an agreed timetable and preparing monitoring reports to Audit and Risk Committee and Cabinet on an agreed timetable, which are also distributed to Cabinet Members.
  - Set the criteria under which costs are treated as capital expenditure.

## **Practice Note 6 - Insurance and Risk Management**

### **1. Outcomes to be achieved**

- The Insurance and Risk Manager being aware of all changes in material facts that could influence insurance arrangements.
- The Council has a robust Risk Management Strategy that is applied across all services.
- All significant risks are identified and managed.
- Potential losses are minimised and claims are successfully defended.

### **2. Key procedures to follow to achieve the above outcomes**

- Insurance and Risk Management
  - The Chief Executive must make sure the Council's Risk Management Strategy is reviewed every year by the Management Team. The review must be submitted to the Audit and Risk Committee before being passed to Cabinet for approval.
  - Any material change which could influence the decision of a prudent underwriter must be notified to the Insurance and Risk Manager as soon as possible.
  - All Chief Officers' responsibilities:
    - Be aware of and use Risk Management in their service.
    - Identify and manage large operational and strategic risks coming from their service activities.
    - Identify risks in relation to large partnerships and obtain assurances in respect of the management of those risks.
    - Make periodic returns or statements on insurance matters as directed by the Insurance and Risk Manager.
    - Notify the Insurance and Risk Manager as soon as possible of any claims, or potential claims.
    - Maintain up to date valuations for insurance purposes where appropriate.
    - Implement procedures and keep records to make certain insurance losses are minimised and the Council is able to defend all insurance claims.
    - Provide up to date records and information to the Insurance and Risk Manager when requested.

- Disclose all material facts to the Insurance and Risk Manager to allow him/ her to discharge their duties.
- Give prompt written notification to the Insurance and Risk Manager of the extent and nature of all new risks, and of any alterations affecting current risks.
- Consult with the Insurance and Risk Manager, Section 151 officer, and Legal and Democratic Services Manager in respect of the terms of any indemnity the Council is asked to give.
- Maintain and review their service's Risk Register in discussion with the Insurance and Risk Manager.
- Report promptly any loss of cash, stores or stock to the Insurance and Risk Manager.
- Complete a risk assessment before members of staff are put in a position where they could theoretically collude with each other to commit fraud.
- Inform the Insurance and Risk Manager, who shall notify the Police, if appropriate, where insurance claims, or potential claims shall be made.
- Notify the Insurance and Risk Manager promptly of the acquisition or disposal of any vehicles or property.
- Ensure all claims are handled in line with relevant protocols.
- The Procurement and Risk Manager shall:
  - Take out all insurance cover and maintain a register of such insurance and the Motor Insurers database.
  - Maintain appropriate insurance reserves to meet uninsured risks and excesses payable on successful claims.
  - Together with the Insurance and Risk Manager review all insurances in consultation with the service Chief Officer when necessary.
- The Audit Services Manager
  - Is responsible for monitoring the implementation and effectiveness of the Risk Management Strategy.



## **Practice Note 7 - Contracts, External Partners and Third party working**

### **1. Outcomes to be achieved**

- All contracts entered into must:
  - comply with the Council's Standing Orders relating to Contracts;
  - not impact adversely on services provided by the Council;
  - be legal and properly authorised; and
  - provide value for money.
- All arrangements with an external partner or a third party are written down and a register of all contacts is kept.
- A risk appraisal is completed for all arrangements with an external partner or a third party.
- Before entering into any agreement, the details of the arrangement are given to the Accountancy Services Manager (Section 151 Officer).

The Audit Services Manager may inspect any final account on a contract and be entitled to any further information and explanations he/she requires.

### **2. Key procedures to achieve above outcomes**

- Agreements with External bodies
  - Before making an agreement with an external partner or third party, staff must complete a risk assessment appraisal and give it to the Section 151 Officer. The risk assessment must include a consideration of insurance requirements (see practice note 6 Insurance and Risk Management).
  - Appropriate information must be given to the Section 151 Officer to enable a note to be added to the Council's statement of accounts concerning important items.
  - Before entering into an agreement with an external body, the Section 151 Officer must be consulted about any charging arrangements.
  - The Section 151 Officer responsibilities:
    - Make sure that accountancy arrangements are satisfactory.
    - Advise on key elements of funding a project, including;
      - an assessment of the financial viability of the scheme in current and future years;
      - resourcing, including taxations issues; and
      - security.

- The Legal and Democratic Services Manager must approve the document before the agreement is signed.
- Contracts
  - Chief Officers responsibilities:
    - Notify the contractor in writing before the work being done or as soon as possible by issuing an official order through the Council's financial system (see practice note 4 Purchase ordering, Invoice payment & Procurement cards).
    - Make sure all variations to the order are authorised by an appropriate officer in accordance with the authorised limits specified in the Contract Standing Orders and get authorisation from Cabinet where these authorisation limits are exceeded, or where the variation may exceed the overall capital provision.
    - Where a variation in the contract occurs, if it is estimated to exceed 5% of the value of the order or £10,000 whichever is the smaller, request a breakdown justifying the variation.
    - Make sure that if the conditions of the contract require the contractor to provide insurance cover, the policies in respect of this cover are obtained and given to the Insurance and Risk Manager and the Section 151 Officer before starting the contract. If the policies end during the term of the contract, further evidence must be obtained.
    - Consult with the Section 151 Officer and Legal Services Manager before entering into any agreement.
    - The contract is signed before the start of any work.
    - Make sure that payments are only made on a certificate issued by or on the behalf of an external architect, engineer or consultant appointed by the Council. Each certificate issued must show the amount of the contract, the amount certified on this certificate, the amount certified to date, the retention amount and, where applicable, the amount deducted for liquidated damages and any Value Added Tax.
    - Payment in advance is only to be made in exceptional circumstances and the risk must be offset by an approved bond in the Council's favour.
    - Make sure the payments made on account are as specified in the contract and subject to being authorised by the Chief Officer or the officer responsible for supervising the contract.
    - Send claims received from the contractor in respect of matters not clearly within the terms of the existing contract to the Legal and Democratic Services Manager for consideration of the Council's legal liability.

- Partnerships
  - All Chief officers must make sure that:
    - The financial performance of significant partnerships is regularly reviewed, linked to outputs, and the results shared with partners and acted upon.
- Work for Third Parties
  - All Chief Officers must make sure that:
    - Appropriate insurance arrangements are made by the Insurance and Risk Manager.
    - The contract, clearly setting out all liabilities is signed before the start of any work.
    - The Council is not put at risk from any bad debts.
    - No contract is subsidised by the Council.
    - The service has the expertise to take on the contract.
    - It will not have an adverse impact on the Council's ability to deliver it's own services.

## **Practice Note 8 - Income Collection and Debt Management**

### **1. Outcomes to be achieved**

- All income due to the Council should be identified and collected promptly.
- All income collected must be recorded, stored securely and transferred to our bank account.
- All income to be coded correctly on the financial system.

### **2. Key procedures to follow to achieve the above outcomes**

- Keep record of all income collected and reconcile to bankings and the Council's finance system.
- Income Collection
  - The Section 151 Officer will decide the arrangements for the order, supply and safe keeping of all receipt forms, books and other such items.
  - The Financial Operations Manager will be responsible for recording Terminal IDs for card payments and obtaining the Payment Card Industry Data Security Standard (PCI DSS) certificates from any third-party system used by the Council for processing card payments.
  - Chief Officers' responsibilities:
    - Where possible income should be collected in advance or at the point of supply of goods or services.
    - Involve the Financial Operations Manager and Digital Services of any third-party system that they wish the council to use in relation to card payments prior to contract award to allow for appropriate checks to be made regarding PCI DSS compliance.
    - All card payments should be processed via the Council's chosen Gateway and Merchant provider, if for some reason this is not possible the Section 151 Officer will need to give permission for an alternative Gateway or Merchant provider to be used.
    - All excesses and shortages of income must be recorded.
    - All money must be kept in a secure place until it can be banked. The Insurance and Risk Manager must be consulted about insurance cover against theft or loss.
    - All money collected for the Council must be banked in our bank account or passed to any other body or person entitled to it, as instructed by the Section 151 Officer.
    - The Financial Operations Manager must be informed of any Council run events that will involve income handling. Notification must be well

in advance of the event to allow for the arrangement of appropriate controls.

- Debtors
  - Chief Officers responsibilities:
    - Make sure all income due is identified and raise a debtors invoice on a timely basis.
    - Make sure that correct VAT is charged on the invoice.
    - Notify the Section 151 Officer of all money due to the Council and of contracts, leases and other agreements and arrangements entered into that involve the receipt of money by the Council.
    - Regularly review outstanding invoices for their area of responsibility, take appropriate recovery action within the service or ask the Section 151 Officer to start external recovery action when necessary in line with the Debt Management policy.
    - Make sure that invoices being authorised for amendment, cancellation or write-off are for the correct account and amount and the reason for cancellation is justified.
  - Section 151 Officer responsibilities:
    - Authorise irrecoverable debts to be written off every quarter.
    - Set the procedures and the timetable to be used for the recovery of debt.
    - Start outstanding debt recovery action in line with the Credit control policy.
    - Actively manage ongoing recovery cases.
- Charges
  - Chief Officers' responsibilities:
    - Discuss any new charging arrangements with the Section 151 Officer before entering into them.
    - Review the basis of their fees and charges every year in discussion with the Section 151 officer.
    - Make sure VAT is applied to all charges liable to VAT if unsure of VAT liability consult the Financial Operations Manager.
    - Ensure that new charges and recurring invoices on the financial system are billed in line with the Council's current pricing schemes.

## **Practice Note 9 - Project Appraisal Reviews**

### **1. Outcomes to be achieved**

- Ensure Council Investment has been prudent and that projects have been implemented successfully and benefits realised.
- Ensure that lessons are learnt and fed through to future projects.

### **2. Key procedures to follow to achieve the above outcomes**

- All Chief Officers must ensure that:
  - Original bid submissions are robust, contain details of measurable outcomes, demonstrate how they support the strategic objectives of the Council and identify any risks associated with the project.
  - They have consulted with all stakeholders.
  - They have the support of their Cabinet member and Director.
  - There should be an effective governance structure in place to ensure there is sufficient oversight, timely decision making and that the project aims and objectives are achieved.
  - They monitor and report regularly on the financial and non-financial information (e.g. milestones and risks), including the performance of the delivery partner and contract obligations during the implementation of the project.
  - They impact assess project changes against key project variables.
  - They carry out a post project evaluation and share any outcome that may assist the organisation on future projects.
  - Provide information to their service accountant to enable the outcomes of the project to be monitored.
- The Procurement and Risk Services Manager shall:
  - Advise on all aspects relating to procurement, advantages and disadvantages of the different contracts available.
  - Manage the tender process through to selection.
- The Accountancy Services Manager (Section 151 Officer) shall
  - Provide financial advice and support to services at all stages of the process and will include advice on inflation, contingencies in line with financial risks and financing costs and impact of the project.
  - Monitor expenditure and income to understand if financial benefits have been realised.

## **Practice note 10 – Financial Arrangements for Partnerships**

### **1. Introduction**

- These notes set out the important terms of reference for officers to consider when entering into Partnership arrangements where we are the treasurer or the lead authority for the Partnership.
- If we are not the treasurer or lead authority, officers acting for the Council should make sure the partnership arrangements are satisfactory and are in line with the terms of reference stated in this guidance note.
- If we are the lead authority or the treasurer for the Partnership, an officer should be identified as the Manager to act as the lead for the partnership.
- All partnerships arrangements must be subjected to a risk appraisal and assurances must be received for the management of any risks found in the appraisal. On-going management of risks should be reviewed annually.
- If a Partnership is a separate legal body we need to include the completion of insurance and risk assessments in its governance statement. These should be agreed with the Audit Services and the Insurance and Risk Managers.
- A freedom of Information request in respect of Partnerships must be forwarded to the Legal and Democratic Manager for response.

### **2. Definitions**

- An arrangement involving the Council and one or more other organisations (from any sector) who share the responsibility for agreeing and delivering a set of actions and outcomes to improve the economic and/or social environmental well-being of people living in, working in or visiting Chelmsford.
- Partnerships are established when two or more organisations come together to form a body that is separate from its constituent organisations and requires a governance framework to oversee its activity.

### **3. Financial Arrangements**

- The Partnership must appoint a Treasurer to deal with its financial affairs.
- The Treasurer must report at agreed intervals to the partners on the finances of the Partnership in an agreed way, and support this statement with appropriate financial records.
- Reports showing expenditure of the Partnership should show the suppliers involved.

- Proper accounting practices must be followed, in particular, in relation to ordering goods and services, authorising invoices and the collection of debts.
- The Partnership should have and issue a clear and costed Business Plan that sets out its objectives for the coming year.
- The lead authority must keep a separate cost centre within its general fund for recording all financial transactions for the Partnership's activities.
- The lead authority shall ensure that money paid or transferred into the Partnership's Accounts is only used for the expenses of the Partnership and shall only transfer or pay any money out of any of the Partnership Accounts in line with Partnership's agreement unless there is written permission from the Partner Authorities.
- Partnership Agreements should advise that partners' contributions will be repaid to them should the partnership cease.

#### **4. Setting budgets for the Partnership**

- The partnership must set their budget for the next Financial Year every year and set the amount that all members must pay or transfer into the Partnership's Account during that year. Any later changes to the agreed budget occurring during the year must be agreed by all of the partners.
- In recommending the final contribution to the partnership, each Partner's decision making body shall take into account recommendations made by the Partnership.

#### **5. Audit Arrangements**

- Internal Audit requirements must be agreed and co-ordinated between the Partner Authorities.
- Internal Audit should be carried out by a partner who is not the partnership's treasurer or lead authority except where an external auditor has been appointed by the partnership.
- The Partner Authorities must agree to contribute to costs incurred by the Partnership for any external audit required by legislation in relation to the accounting records and accounts of the Partnership.

#### **6. Monitoring and Assessment**

- The Partnership is responsible for monitoring and assessing its performance:
  - measured by a range of indicators that the Partner Authorities have agreed;



- in achieving the key outcomes identified in its Business Plan.
- The Partnership will receive presentations and progress reports on key issues and notable projects and take action to address the shortcomings identified.
- The Governance arrangement for partnerships must be subject to regular review and update.
- The Partnership must produce an Annual Report of its activities, finances and performance to the Partner Authorities and other appropriate parties.

## CONSTITUTION PRACTICE NOTE

### PROTOCOL FOR INDEPENDENT PERSON(S) AT GOVERNANCE COMMITTEE

1. The Localism Act 2011 requires the Council to promote and maintain high standards of conduct by its members and co-opted members. To this end the Council has adopted a Councillors' Code of Conduct and has agreed arrangements for dealing with an allegation that a member or co-opted member has breached the Code. In accordance with the requirements of the Act these arrangements include provision for the appointment of at least one Independent Person to undertake the duties described in the arrangements.
2. To discipline or dismiss the Council's Head of Paid Service, Monitoring Officer or Chief Finance Officer requires the undertaking of a statutory procedure and as part of that an Independent Panel must be established, the views, advice or recommendations of which must be considered by the Full Council prior to any decision being made. The Independent Panel must include at least two Independent Persons appointed under the Localism Act 2011 by the Council or by another local authority. The Council aims to have at least two serving Independent Persons.

#### **Appointment**

3. To be eligible for appointment as an Independent Person a person must not be or have been within the previous 5 years a member, co-opted member or officer of the Council or of a Parish Council of which the Council is the principal authority, nor a relative or close friend of such member or officer.
4. A candidate should not be involved actively in party politics and should be independent of Chelmsford City Council. It is essential that a candidate can demonstrate personal integrity and honesty, a keen interest and commitment to maintaining high standards in public life, experience of exercising sound judgment in relation to complex matters and strong oral and written communication skills. It would be beneficial for a candidate to demonstrate experience of managing or advising upon misconduct issues in another context, understanding the pressures and constraints of serving as a member of an accountable public body and knowledge of public sector governance issues.
5. An Independent Person may only be appointed pursuant to a formal recruitment process requiring a public advertisement, submission of applications and selection, usually by interview. A person's appointment must be approved by the full Council. An Independent Person is the holder of a

statutory office and not an employee of the Council. Under the Council's Allowance scheme an allowance and expenses may be paid to an Independent Person.

### **Role of the Independent Person**

6. The primary role of the Independent Person is to be available for consultation at various points in the arrangements for dealing with misconduct complaints upon various issues as follows:
  - (i) The Monitoring Officer will review every complaint received and may consult the Independent Person before taking a decision as to whether or not the complaint merits investigation. The Independent Person should provide an objective and impartial opinion which the Monitoring Officer will take into account in making the decision.
  - (ii) Where an investigation has been undertaken, a draft report will be submitted by the Investigator to the Monitoring Officer or be prepared by the Monitoring Officer. The Monitoring Officer may ask the Independent Person for a view upon whether the report is satisfactory or whether further investigation is necessary, and whether or not the report should be submitted to the Governance Committee.
  - (iii) The Monitoring Officer may consider that the matter can reasonably be resolved without a hearing and may consult both the Independent Person and the Complainant and seek to agree a fair resolution which also helps to ensure higher standards of conduct for the future.
  - (iv) Where a complaint is the subject of a Governance Committee hearing, at least one Independent Person must attend. After all the evidence has been presented the Committee will seek the views of the Independent Person before determining whether or not the member breached the Code of Conduct. The Independent Person does not vote upon whether or not the complaint is upheld.
  - (v) Where the Governance Committee determines that a member has breached the Code, it will seek the views of the Independent Person upon any sanction to be imposed.
  - (vi) The Independent Person may be consulted by the Monitoring Officer or other authorised representative of the Council at any stage in the arrangements for dealing with misconduct complaints.

- (vii) The Independent Person may be consulted by a member or co-opted member of the Council or of a Parish Tier Council for which the Council is the principal authority if that person's behaviour is the subject of an allegation.
  - (viii) Where the Independent Person is consulted by the Monitoring Officer or other authorised representative of the Council or a member or co-opted member pursuant to paragraphs (vi) or (vii) above, the Independent Person does not represent the Council or any other party to a complaint whilst being an impartial point of reference and source of advice for both. Consultations with the Independent Person are confidential between the parties and the content or outcome of such consultation may only be disclosed by either, if both parties agree to such disclosure.
7. A further role of the Independent Person arises from the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended). By virtue of amending regulations in 2015, there is a prescribed statutory process for disciplining or dismissing an authority's Head of Paid Service, Monitoring Officer or Chief Finance Officer. A decision to discipline or dismiss must be taken by Full Council which must consider, amongst other things, advice, views or recommendations from an independent panel. That panel must include at least two Independent Persons appointed under Section 28(7) of the Localism Act 2011 by the Council or by another local authority.
  8. In addition to the statutory duties, the Independent Person is invited to attend meetings of the Governance Committee and may participate in all aspects of the Committee's work in a non-voting capacity. The Independent Person will be consulted in respect of changes to the Council's ethical framework.
  9. When the Council has more than one Independent Person, the Monitoring Officer shall ensure that the workload is dealt with jointly and/or shared out between those persons as the Monitoring Officer considers appropriate.

## **Training**

10. Training for the roles of the independent person with particular reference to local government governance and practice will be provided in-house by the Monitoring Officer and other senior officers and where appropriate through external courses. Training for disciplinary and/or dismissal proceedings against a statutory officer will be provided externally.
11. Independent persons are persons of experience from a context other than that of local government within Chelmsford, but which can be valuable in bringing a fresh perspective to public sector governance and ethical framework issues.

# CONSTITUTION PRACTICE NOTE

## KEY DECISIONS

### 1. Why this Practice Note has been produced

1.1 There are processes and procedures that we must follow when making certain decisions. Failure to follow these means the decision can be challenged and lead to delays in putting them into practice.

1.2 This Practice Note explains:

- what a key decision is
- sets out the legal requirements for making and publishing them; and
- explains what you need to do

1.3 The main legal requirements can be found in the following documents-

- Article 14 of the Council's Constitution; and
- The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 ("the 2012 Regulations").

1.4 There is a flowchart of the process at Appendix B that takes you through all the steps required.

1.5 You should contact the Democratic Services Team if you have any questions or are unsure what to do.

### 2. What is a Key Decision?

2.1 Article 14 of the Constitution describes what a Key Decision is.

2.2 In summary this definition and procedure only applies where the decision is taken by-

- the Leader of the Council,
- the Cabinet or
- delegated by Cabinet to-
  - a committee of the Cabinet,
  - a Cabinet Member or
  - an officer

2.3 In addition it is only a Key Decision where-

- the Council will incur expenditure or make savings (including generating income):
  - the value of which is at least £200,000 or
  - would result in an increase or decrease of at least 20% in the relevant expenditure or income budget for a particular service

**OR**

- there is a significant effect on two or more wards in the City of Chelmsford in terms of the services provided or impact on the quality of life in the area.

### 3. The Requirements to Publish a Notice

3.1 The 2012 Regulations changed the way in which a Local Authority can make Key Decisions and sets out a legal process to ensure that the Council is accountable and transparent to the public, which requires us to publish a notice as to what we intend to make a decision on and when.

3.2 For all notice periods-

- a clear day starts the day after the decision is published and
- the period ends the day before the decision will be taken.

#### The Normal Procedure

3.3 Where at all possible we should publish a notice that we intend to take a Key Decision at least **28 clear days** in advance of the decision being taken. The 28 day period includes weekends and bank holidays and but does not include the day the notice is given or the day the decision is taken (the meeting).

3.4 It is possible to give shorter notice of the intention to make the decision in cases of urgency, but-

- we need to have good reasons that we can explain
- this creates more work and
- is not as transparent for the public.

3.5 The notice is placed on the Council's website and must include any decisions to be made by the members or officers referred to in Paragraph 2.2 above.

3.6 You should therefore inform Democratic Services as soon as you know that a decision will be required, so that we can add it to the notice. It doesn't matter if you subsequently have to delay the decision as the notice will still be effective.

#### Exceptions Procedures

3.7 There will of course be times when, because of urgency, we cannot give 28 days' notice. In those cases there are two possible Procedures, namely the General Exception and the Urgency Exception.

3.8 It is less likely that this procedure will be required when a decision is to be taken by an officer as it is easier to move the date an officer will do so than to change the date of the Cabinet, meetings of which are fixed well in advance. However, there may still be times when an officer decision will be urgent and in these circumstances the following rules must be applied

#### The General Exception

3.9 This can only be used-

- Where there are **more than 5 clear days but less than 28 clear days** before the decision is to be made.
- Where it is impractical to publish notice with 28 clear days' notice and you need to explain why the decision cannot wait.
- Where the Chair and Vice-Chair of the Overview and Scrutiny Committee have been **informed** in writing, or if they are unavailable, each member of that Committee, before the decision can be taken.

3.10 The notice will be published by Democratic Services and you will be told the earliest date the decision can be taken. This will be the appropriate procedure where a decision cannot wait for the full 28 days' notice, for example-

- There are not 28 clear days before the next Cabinet meeting and the decision cannot wait for the Cabinet meeting after that; and
- There are reasons why we need members or officers to make that decision within the next 28 days, examples of which are set out in Appendix A.

#### The Urgency Exception

3.11 This can only be used -

- Where there are **less than 5 clear days** before the decision is to be made
- if there are exceptional circumstances, in which case you need to explain why the decision cannot wait.
- Where the following have **agreed** that the decision cannot reasonably be deferred
  - the Chair of the Overview and Scrutiny Committee; or
  - if the Chair is unavailable, the Mayor
- Once the required notice of the decision being taken has been published by Democratic Services.

3.12 This will be the appropriate procedure where there is a clear need to take a decision within a very short period of time, for example-

- there is a health and safety issue that must be addressed or
- an opportunity will be lost, which would represent a significant detriment to the Council or to the services it provides.

#### **4. Providing Reasons under the General or Urgency Exception Procedures**

4.1 Democratic Services cannot prepare the required notice, under either procedure, until you have provided details of the decision required and reasons as to why the normal procedure, with 28 clear days' notice, cannot be used. You should prepare a report for the decision maker whether that is to be members or an officer.

- In the case of a Cabinet decision the usual form of report will be required, even if it is to be dealt with as an urgent report.
- It is strongly recommended that you use a similar format for an officer decision as it prompts you to include information as to all the legal requirements.

4.2 Some of the more usual reasons for not giving the full 28 days' notice are set out in Appendix A. If you are unsure of the reasons it is likely that short notice is inappropriate and you should discuss this with Democratic Services before sending the papers. Otherwise there may be further delays to clarify them.

4.3 You should also be aware that the reasons you provide will be included in the Notice of the intention to take the decision (the Regulation 10(1) Notice), which is available for public inspection on the Council's website and at Civic Centre.

## **5. Consequences of a breach of these Regulations**

5.1 It is an offence to obstruct the publication or copy of a document that should have been published or available for inspection. It is also an offence to obstruct the inspection of a document that should have been open to the public. Both offences carry a penalty of a fine not exceeding Level 1 of the Standard Scale, currently £200.

5.2 The decision may be 'called-in' by the Overview and Scrutiny Committee and an Officer may be required to give evidence at this Committee on the decision. Therefore it is imperative where the decision is urgent that the agreement of the Monitoring Officer is obtained as to the reasons for the urgency as set out in Rule 7 of the Executive Rules in Part 4.4 of the Constitution.

An urgent decision will normally also need to be exempted from the call-in arrangements, whereby it could be requested that the Overview and Scrutiny Committee consider the decision before it is implemented.

If an exemption is needed, Rule 4.4.7.6 of the Executive Rules in Part 4.4 of the Constitution requires that the agreement of the Monitoring Officer is obtained before the decision is taken by the Executive. This will also apply to urgent decisions to be taken by officers. It should be noted that the Overview and Scrutiny Committee could still review the decision after it has been taken.



## Appendix A - What would qualify as reasons for the General and Urgency Exceptions?

- **Commercially sensitive reasons:**
  - Favourable Market values at that time.
  - Third Parties competing.
  - Seller requires a quick completion of a property transaction, which the Council is keen to secure or the purchaser of a Council property does so and an opportunity would be lost.
  - An unplanned but urgent event requires the completion of a contract.
- **Legal reasons:**
  - Statutory deadlines with the consequence that the decision cannot be deferred to 28 clear days' notice.
  - The delay may prejudice the Council's legal position.
  - The delay would cause adverse legal conditions / consequences for the Council, such as a possible breach of health and safety requirements.
  - The approval of a budget is required before the urgent action can be progressed
  - There is no appropriate authority for officers to take the decision and therefore member's approval is required urgently.
  - New information has come to light on a previously agreed issue and a further key decision is necessary
  - A statutory consultation period or other requirement means the decision cannot be delayed
- **Detriment or hardship to a party other than the Council**

## Appendix B – Which Procedures should you use?

### Is the decision a Key Decision?

A key decision is an executive decision (i.e. one taken by the Leader, the Cabinet or delegated by it to a committee of the Cabinet, a Cabinet Member or an officer) which:

- **Will result in** the Council incurring expenditure or making savings (including generating income) which represents the lower of **£200,000 or 20%** or more of the relevant expenditure or income budget for a particular service; **OR**
- **Will have a significant effect** on two or more wards in the City of Chelmsford in terms of the services or quality of life in the area.

Yes

No

Is it possible to give 28 clear days' notice of the intention to take the decision?

The Decision is taken according to the normal Procedure without having to give 28 days' notice.

Yes

The Decision is taken according to the normal Procedure.

Does the decision need to be taken in less than 28 clear days?

Yes

Do you have 5 clear working days or more before the decision is required to be made?

No

Yes

No

**Publish notice** of the Key Decision at least 28 clear days' notice prior to the Decision being taken.

**Notify** the Chair of the Overview and Scrutiny Committee.

**Publish short notice** of the Key Decision under the Urgency provision, having received confirmation that the decision is urgent from the Chair of the Overview and Scrutiny Committee.

28 Clear days

**Publish notice** of the Key Decision at least 5 clear days before the decision is required to be taken with reasons why proper notice

As soon as practicable, you must **publish notice** of the Decision together with reasons why it was not possible to give at least 28 clear days.

**The Key Decision can be taken.**

# MAYORAL PARTY PROTOCOL



## Contents

| <u>Paragraph</u> | <u>Subject</u>  | <u>Page</u> |
|------------------|---|-------------|
| 1                | General Principles  | 2           |
|                  | • Role of the Mayoralty   | 2           |
|                  | • Role of Deputy Mayor  | 2-3         |
| 2                | Neutrality  | 3           |
| 3                | Form of Address   | 3           |
| 4                | Attire and Use of the Mayoral Regalia                           | 3-4         |
| 5                | Events  | 4           |
|                  | • Annual Civic Events   | 4-5         |
|                  | • Events Promoted by the Council or the Mayor                   | 5           |
|                  | • Events which the Mayor is expected to attend                  | 5           |
|                  | • Events which the Mayor is invited to attend within Chelmsford | 5-6         |
|                  | • Visits outside the City                                       | 6-7         |
|                  | • Precedence  | 7-8         |
|                  | • How to Address Dignitaries at Events                          | 8           |
|                  | • Organisation of Engagement Paperwork                          | 8           |
| 6                | Expenses of Office  | 8-9         |
|                  | • Gifts   | 9           |
|                  | • Use of the Civic Car  | 9-10        |
| 7                | Mayor's Charity   | 10          |
| 8                | Patronage & Other Support                                       | 10-11       |
| 9                | Mayor's Spiritual Support                                       | 11          |
| 10               | Correspondence and Sealing of Documents                         | 11          |
|                  | • Correspondence  | 11-12       |
|                  | • Sealing of Documents  | 12          |
| 11               | Town Twinning   | 12          |
| 12               | Mayoral Office & Support Staff                                  | 12-13       |
| 13               | Use of the Mayor's Parlour                                      | 13          |
| 14               | Role of the Mayoral Working Group                               | 13-14       |
|                  | <b>Appendix 1: Regalia- Use and Custom</b>                      | 15-18       |
|                  | <b>Appendix 2: Events &amp; Procedures</b>                      | 19-23       |

## **1. GENERAL PRINCIPLES**

### **Role of the Mayoralty**

- 1.1 These notes are intended to help the Mayor and members of the Mayoral party to understand some of the intricacies and issues that may arise during a term of office.
- 1.2 As the First Citizen of the City, The Mayor personally and through the use of the Mayoral Insignia and traditions of the Office, has the prestigious role of representing the whole City during their term of office. As its representative, they can influence public perception and enhance the image of the Council.
- 1.3 It must be remembered that undertaking the role of Mayor is a Civic Office and not a personal one. When fulfilling engagements, the Mayor has the opportunity to act as a link between the various groups and organisations visited and has a unique overview of the needs and concerns of the community they serve. The Mayor is also in a position to take out to the community the message and aims of the Council. When attending functions great care must be taken about making any comments or passing any remarks that may be construed as being City policy. Equally, it is important not to commit the Council in any way or to incur any funding without reference to the Chief Executive or Cabinet Member(s). In particular, the Mayor should not extend invitations to individuals or organisations that might not be in the best interests of the Council.
- 1.4 Advice on the roles, responsibilities processes and procedures related to the Mayoralty is also available from the Mayor's Office, which provides consistency and continuity and helps to ensure that it is a successful year.

### **Role of Deputy Mayor**

- 1.5 The role of the Deputy Mayor is to deputise for the Mayor when the latter is not available to attend a function or if there is more than one invitation for the same date and time. For this reason, the Deputy Mayor should endeavour not to be away or otherwise unavailable at the same time as the Mayor, e.g. Town Twinning visits. The Deputy Mayor's role is not to act as Mayoral support or to make up a Mayoral party. Under no circumstances should staff be asked to obtain additional tickets should the Mayor wish the Deputies to accompany them to a function, or vice versa.
- 1.6 There will be several functions during a year to which all or specific members of the Mayoral party are invited. Equally, it may be that the Mayor will wish to pass to the Deputy Mayor an invitation that it may be more sensible for them to attend because of their special interest.
- 1.7 When the Mayor is unavailable to attend a function and the Deputy Mayor is required to attend, then the Deputy Mayor will have use of the civic car and Chauffeur.

1.8 However, if the Deputy Mayor is attending a function at the same time as the Mayor, then it will be normal practice for the Deputy Mayor to drive them self to the event.

1.9 On occasions, owing to the nature of the event e.g. a Civic service, it may be more appropriate for the Mayor's Office to arrange a chauffeur driven car to be hired for the Deputy Mayor.

## **2. NEUTRALITY**

2.1 The Mayoralty will traditionally adopt a neutral role in Council affairs. The Mayor will be expected to take the Chair at Council meetings in absolute impartiality. Councillors will support the Mayor in this, and respect their neutral position.

2.2 It may be advantageous to ask a fellow ward or adjoining ward Councillor to deal with certain aspects of Council business during the Mayor's year of office.

2.3 It is important that (so far as possible) Mayors are non-political and should not attend party political functions as Mayor.

## **3. FORM OF ADDRESS**

3.1 As set out in the Mayoralty Rules, the usual form of address for the Mayor is "Mr Mayor" if male and "Madam Mayor" if female. Staff are expected to address the Mayor formally. The Mayor's partner will be addressed as "Mayoress" or "Mayor's Consort". The Deputy Mayor will be addressed as "Deputy Mayor" and the Deputy Mayor's partner would be addressed as "Deputy Mayoress" or "Deputy Mayor's Consort".

## **4. ATTIRE AND USE OF THE MAYORAL REGALIA**

4.1. The Office of Mayor is a formal role, like the Lord Lieutenant and High Sheriff, and casual clothes are inappropriate when the Chain is worn. The type of dress to be worn at functions is usually given on the engagement form or invitation and, if very formal, will be included on the invitation card. It is hoped that Ladies in the Mayoral party will wear hats at some functions, e.g. in the presence of Royalty or when the Lord Lieutenant is attending as the Queen's representative (investitures, Queen's Award for Industry, etc). Members of the Mayoral Party should never be afraid of being over-dressed – much better than appearing under-dressed.

4.2 Male Mayors, for most occasions, should wear a dark suit with a white/light coloured shirt and tie. For less formal occasions, for example when taking part in charity walks etc. it may be acceptable to be more casually dressed, e.g. in a jacket rather than suit. On such occasions the Mayor should wear the badge and corporate collarette rather than the Chain of Office. The Chain should always be worn over a jacket and never in short sleeves. The Mayor should only be without a jacket if the weather/heat means it is unsuitable. On occasions where the

Mayor has had to resort to short sleeves, the badge and corporate collarette should be worn.

- 4.3 Female Mayors should similarly be formally dressed and will, in any case, find that the chain will 'sit' better on a jacket or coat of heavier material. The chain itself is too heavy to wear properly and comfortably over lightweight materials.
- 4.4 If unsure the Mayor should consult the Mayor's Office for advice on the appropriate form of dress for a particular event or occasion.
- 4.5 Experience has shown that prolonged wearing of the chain will result in some discomfort as the longer it is worn, the heavier it will seem to become. It may be that wearing the badge on the corporate collarette is more appropriate. Please seek advice from the Mayor's Office if required.
- 4.6 The engagement sheet will give instructions as to whether the Chains/Badge and corporate collarette should be worn and Appendix A gives further guidance on the wearing of the Civic Regalia. It should be noted that only those members of the mayoralty sworn in at Annual Council can wear the badges. If the Mayor or Deputy is escorted at an event by a guest who is not their partner/was not sworn in at Council, then they do not wear a badge of office.

## **5. EVENTS**

- 5.1 These are divided into four main categories as follows. Additional details as to what is expected and how the events will be organised is also provided below.
  - a) annual civic events;
  - b) those promoted or organised by the Council, or the Mayor, or at which either act as hosts; and
  - c) those which the Mayor is expected to attend;
  - d) those which the Mayor may be invited to attend.

### **Annual Civic Events**

- 5.2 There are a number of annual civic events that are organised by the Mayor's Office and it is important to realise that these are Civic events and not the Mayor's events. Further details of the Civic Events can be found in Appendix B, paragraph 7, but these include:

- a) Reception after the Annual Meeting
- b) Civic Service
- c) Remembrance Sunday
- d) Tree Planting
- e) Christmas Reception
- f) Civic Lunch
- g) Community Evening
- h) Civic Carol Service

- 5.3 For Civic Events, guest lists, speakers and the sequence of speeches, where appropriate, will be agreed by the Mayoral Working Group.

#### **Events Promoted by the Council or the Mayor**

- 5.4 The Mayor is not expected to be involved in all Council promoted events. It is, however, well established that the Mayor (together with the relevant Cabinet Member) will be invited to officiate in all major “openings”, “unveilings” and other special occasions of major civic significance. Less significant events, e.g. a cheque presentation, are often more appropriately dealt with entirely by the relevant Cabinet Member although the Mayor may, for various reasons, also become involved in such events.
- 5.5 When an event is identified as one in which the Mayor is to be involved, the organising Council officer should liaise with the Mayor’s Office with regard to the planning of the event.
- 5.6 The Mayor’s involvement in Council sponsored events can be as “host” or as “guest” but it is not usual for the Mayor to be a guest when the event takes place in the Mayor’s Parlour.
- 5.7 Council promoted events attended by the Mayor can vary widely and it is not possible to prescribe the procedures that will meet all occasions but guidance which covers most eventualities is found at Appendix B. The following are categories most typically encountered:
- a) events at which the Mayor is to unveil;
  - b) events at which another VIP is to unveil;
  - c) events at which a joint unveiling is to take place;
  - d) events in the Mayor’s Parlour;
  - e) events away at Council owned venues;
  - f) visits to Chelmsford by VIPs.
- 5.8 In all cases, the organiser of an event should ensure there is an adequate and timely briefing of the Mayor and others taking an active part in proceedings.

#### **Events which the Mayor is expected to attend**

- 5.9 There are a number of external annual events which the Mayor is expected to attend on behalf of the City and the most important of these are included under Paragraph 8 of Appendix B.

#### **Events which the Mayor may be invited to attend within Chelmsford**

- 5.10 The number of engagements fulfilled by a Mayor is not an indication of quality. The Mayoralty must not seek out invitations. The soliciting of invitations does neither the office of the Mayor nor the Mayoralty any credit. If the invitation provides more than one date, then the Mayor must chose a date to attend; alternative dates cannot be offered to the Deputy Mayor.



- 5.11 Invitations for the Mayor to attend functions are for the Mayor and other members of the Mayoral Party only. It is not expected that other family members or friends will attend unless specifically invited; soliciting invitations for family members or friends will not enhance the status and reputation of the office. It is potentially embarrassing for the organisation involved or for Council staff who may be asked to arrange for such invitations to be extended.
- 5.12 Most invitations will usually start with a telephone call/email to the Mayor's Office to ascertain if the Mayor is free on a certain date and time; this will be pencilled in the diary and the enquirer will be asked to send a written invitation to the Mayor's Office. This will then be considered by the Mayor and the Mayor's Office and if accepted will be confirmed in the diary. An engagement form is then sent to the inviting party for completion and should be returned to the office no later than 14 days prior to the event.
- 5.13 This procedure applies equally to events organised by other Council Services. If officers approach the Mayor with an invitation to attend an event, the officer should be asked to refer the request to the Mayor's Office so that all necessary procedures can be followed.
- 5.14 Mayors and Deputy Mayors must not accept invitations personally. The Mayor's Office has produced business cards, which may be handed to those wishing to invite the Mayoralty to an event. The Mayor's Chauffeur will have these available.
- 5.15 It is important that Mayors and Deputy Mayors arrive for functions at the appointed time. Late and early arrivals are to be avoided. Close liaison with the Chauffeur and reference to the engagement form is necessary to achieve precise timing whenever possible. The Mayoral Party should not get out of the Civic Car until the Chauffeur has ensured that those who have been nominated to receive the Mayoral Party are in place and the Chauffeur can, therefore, hand custody of the Mayoral Party over to the host of the event.
- 5.16 The Mayor's Office occasionally receives requests for the Mayor to send a card to mark a special birthday or anniversary. The Mayor's Office will make the necessary arrangements for this. It may also be that the Mayor is invited to attend a function to mark the special day and the normal protocol would be to accept invitations to Diamond (60<sup>th</sup>) Wedding Anniversaries but not Golden (50<sup>th</sup>) Anniversaries and similarly to attend 100<sup>th</sup> Birthday celebrations but not a 90<sup>th</sup> Birthday party, unless the person or persons concerned are a friend of the Mayor.

#### **Visits outside the City**

- 5.17 The Mayor's office will sometimes receive invitations to events outside of the Chelmsford area. If the event has no direct links to Chelmsford then these will usually be declined. The exception would be the Queen's Garden Party (if the Mayoralty have never attended before), civic functions held by the principal neighbouring Mayors/Chair of Essex and the Costermongers event in London.

- 5.18 Invitations received by the Town/Parish Mayors/Chair outside of Chelmsford will be declined. Only invitations from South Woodham Ferrers Town Council will be accepted.
- 5.19 If the Mayor attends a function outside of Chelmsford it is customary for the Mayor's Office to seek the permission of the "host" authority for the Mayor (or a member of the Mayoral party, as appropriate) to wear the chain or badge of office.
- 5.20 Conversely, a Mayor or Chair of another authority attending a function in the City of Chelmsford will seek our permission to wear their chain/badge. Permission would normally be given for the visiting dignitary to wear the same regalia as our Mayor, if in attendance e.g. if the Mayor of Chelmsford is in attendance then other Mayors can wear their chains, however if the Deputy Mayor is in attendance then other Mayors will be asked to wear their badge of office.

### **Precedence**

- 5.21 The question of precedence on the occasion of a Royal visit has often been the subject of comment and enquiry. Section 3(4) of the Local Government Act 1972 established the precedence to be enjoyed by the Chair (Mayor) of District (City) Councils but did not prejudicially affect the exercise of the Royal prerogative in this connection.
- 5.22 The legislation provides that "the chair of a district council shall have precedence in the district, but not so as prejudicially to affect her Majesty's royal prerogative."
- 5.23 Therefore where a City (District) matter is the purpose of a Royal visit to a county, the Mayor (Chair) of the City (District) will take precedence as provided in that section. Her Majesty has, however, made it clear that on other official Royal visits to a county the order or precedence should place the Chair of the County Council before the Chair (or Mayor) of the City (District) Council. On such an occasion the order of presentation by the Lord Lieutenant to the Royal visitor will normally be:
- a) Lord Lieutenant's spouse
  - b) High Sheriff and spouse
  - c) Chair of County Council and spouse
  - d) County Chief Executive and spouse
  - e) Mayor (Chair) or City (District) Council and spouse
  - f) City (District) Chief Executive and spouse
  - g) Member of Parliament and spouse
  - h) Chief Constable and spouse
- 5.24 After these presentations, the Lord Lieutenant will present the principal organiser of the event to which the visit is being made and other necessary presentations may be deputed to the organiser.

- 5.25 Her Majesty has ruled that these arrangements should apply also to official visits by those members of the Royal Family styled His or Her Royal Highness and their spouse.

#### **How to Address Dignitaries at Events**

- 5.26 When addressing dignitaries verbally, it is considered acceptable to refer to them by their title. This protocol is also acceptable when referring to them in conversation when the word "The" will precede the title, e.g. The Lord Lieutenant, The Bishop (of.....).
- 5.27 Any queries about forms of address prior to attending an event, or for correspondence, should be addressed to the Mayor's Office who will be happy to provide guidance.

#### **Organisation of Engagement paperwork**

- 5.28 Each week an engagement list showing the following two weeks' engagements is prepared. This gives information on the date, time and venue of each engagement, the organisation and the time of collection by the Chauffeur.
- 5.29 Engagement lists are emailed to the Mayor and the Deputy Mayor each week, together with copies of engagement forms and supporting documents for the coming week. A copy is also given to the Chauffeur with any invitation cards/tickets/car parking passes that may be required. Lists are also distributed to a number of Council officers, councillors, CCTV, the police, local press, radio and television.

### **6. EXPENSES OF THE MAYORALTY, GIFTS & HOSPITALITY**

- 6.1 The Mayor and the Deputy Mayor each receive a personal allowance which is intended to meet expenses incurred by the Mayor and spouse, the Deputy Mayor and spouse by virtue of the office, e.g. clothing, footwear, wardrobe necessities, accessories, hairdressing, spending at the many fund-raising events attended during the year, occasional gifts, gratuities, and visits to twinning partners, etc.
- 6.2 When the Mayoralty is required to provide their own transport to official engagements, and they are attending in the capacity as the Mayor or Deputy Mayor, then they will be entitled to claim for the mileage expenses in accordance with the relevant provisions of the Member's Allowances Scheme.
- 6.3 However, when the Mayoralty attend functions which are not classified as official functions and where they are not required to wear any regalia e.g. weekly meetings, Mayoral Working Group meetings, Council meeting rehearsals etc, then mileage claims cannot be made.
- 6.4 The major costs of civic entertaining and hospitality are met from the Hospitality Budget that is administered by the Mayor's Office.

### **Gifts**

- 6.5 During the Mayor's term of office it is likely that gifts will be received from organisers of events or from visitors to the Parlour. It must be remembered that these gifts belong to the City and will be recorded in the Register of Civic Gifts (held by the Mayor's Office, the Chelmsford Museum will also need to log all items) and are kept in the Parlour.

### **Use of the Civic Car**

- 6.6 The civic car is for the use of the Mayor, Deputy Mayor and their escorts. It is not available to transport other members of the Mayor's or Deputy Mayor's family, friends or guests, except in very special circumstances.
- 6.7 There may be occasions when the car is required for other civic use such as Ministerial visits, meeting VIPs at airports, etc. The car will only be used on such occasions if it is not required for use by the Mayor or Deputy Mayor and such use will require approval from the Chief Executive.
- 6.8 In connection with external engagements, the Chauffeur will collect the chain(s) from the Civic Centre. At the conclusion of the function the Chauffeur is responsible for returning the chain(s) to the Civic Centre. There may be an occasion when it is necessary for the chains to be retained overnight, e.g., overseas visits, town twinning, overnight visits. In such cases, the Mayor's Office will inform the Section 151 Officer for the Council's insurers to be notified.
- 6.9 It is normal for the Mayor and Mayoress to require assistance in becoming attired. The Chauffeur (and macebearer, if present) usually provides this assistance.
- 6.10 The Civic Car is for the use of the Mayor and Deputy Mayor and their Escorts to transport them to and from engagements (see paragraph 2 in connection with the use of the Civic Car by the Deputy Mayor).
- 6.11 However, for functions and meetings taking place at the Civic Centre, the Mayor and Deputy Mayor will normally be expected to drive themselves. The exception to this will be for meetings of the Council.
- 6.12 The pendant/flag is only to be used when the Mayoral car is carrying the Mayor or the Deputy Mayor. For security reasons the shield should be removed from the car once it is parked and should not be used on the car when speeds of 50mph will be exceeded.
- 6.13 The Deputy Mayor is provided with a shield for the top of their own car on the occasion that the Mayor is attending an alternative function and the Deputy is therefore representing the Mayor and driving themselves. For security reasons the shield should be removed from the car once it is parked and should not be used on the car when speeds of 50mph will be exceeded.
- 6.14 Please note that if the Mayor and Deputy are both attending the same function then only the Mayoral car should display the shield (and flag).

## **7. THE MAYOR'S CHARITY**

- 7.1 The role of Mayor is a civic office and not a fund-raising one and any charitable work should be regarded as an incidental and not a major function of the Mayoralty. A Mayor may choose to nominate a charity (or sometimes two) to receive mayoral support during the year but it must be remembered that Civic Services staff should not be asked to assist with the organisation of any charitable events. However, the Mayor's Office should be informed of fund-raising events organised by the Mayor's charity.
- 7.2 The Mayor would be well advised to form a small working group with the charity to organise various fund-raising events using their name. The Mayor's office will be able to give guidance on using a separate bank account for all charity funds. This account will be administered by the Mayor, Mayoress or charity to ensure that any monies received can be accounted for. Any expenses incurred on behalf of the Mayor's charity should be made from the Mayor's charity account.
- 7.3 It has become the custom in recent years for the Mayors/Chair of other Essex Authorities to invite the Mayor to attend fund-raising events in support of their own charities. Such invitations should be declined as they are of no relevance to the Office of Mayor of Chelmsford. However, if the Mayoral party wishes to support such an event, it is suggested that a personal donation is made to the charity. Sometimes Charity events are promoted as Civic events which can make it difficult to determine whether the Mayoralty should attend. The Mayoral Working Group agreed that if a monetary payment to a charity is required then this would be classed as a charity function and should be declined.
- 7.4 Whilst it is not the role of the Council to be involved in the day to day administration of the Charities account, it is desirable that there be an overview of the financial position on the account during the Mayoral year. It has been agreed that the Mayoral Working Group should perform that role by receiving twice-yearly reports on income and expenditure within the account to enable a degree of independent monitoring.

## **8. PATRONAGE AND OTHER SUPPORT**

- 8.1 The Mayor, by virtue of the office, may be a Patron, President or Member of a number of organisations during the year of office. These include:
- a) President Chelmsford Theatre Association
  - b) President Town Twinning Association
  - c) President Chelmsford Silver Band
  - d) Patron Chelmsford French Circle
  - e) Patron Chelmsford and North Essex British Limbless Ex-Service Men's Association (BLESMA)
  - f) Trustee John Henry Keene Memorial Homes

g) Custodial Trustee Chelmsford Cathedral Appeal

- 8.2 The most active of these is the John Henry Keene Memorial Homes Trust, which meets four times a year. Mayors are asked to return to the office for filing agenda, minutes and other papers from meetings attended as Patron, etc, so that their successors can have background information.
- 8.3 The Mayor is specifically requested not to agree to invitations to act as patron as this may put the Council in a difficult situation.

**9. MAYOR'S SPIRITUAL SUPPORT**

- 9.1 The Mayor may appoint a suitable person to act as the Mayor's Chaplain during the Mayor's term of office. The Chaplain would normally be someone who is an official of a religious group, reflecting the Mayor's own religion.
- 9.2 Irrespective of the Mayor's personal beliefs, it is undoubtedly worthwhile for a Chaplain to act as a focal point for religious groups in the area and to advise the Mayor on religious matters. Whatever religion the Chaplain comes from, what is important is that the support given to the Mayor helps the Mayor to understand and lead all sections of the Community.
- 9.3 The Mayor's Chaplain will be expected to open all meetings of the Council with suitable prayers and attend/officiate at the following planned events:-
- a) Civic Service
  - b) Remembrance Sunday Parade and Service
  - c) Tree planting
  - d) End of Term Service
- 9.4 The Mayor's Chaplain may also be invited to attend other events during the year at the request of the Mayor.

**10. CORRESPONDENCE AND SEALING OF DOCUMENTS**

**Speeches and Letter Writing**

- 10.1 The engagement form or original invitation will give an indication as to whether the Mayor will be asked to make a speech. Most speeches will be relatively short and informal – words of welcome, appreciation or thanks at the start or conclusion of a function. However, the Mayor should ensure that the words have meaning and substance stating, for instance, what was gained from the event or why it was so enjoyable; other functions may require a longer, more formal speech. Mayors are expected to write their own speeches but background information is often supplied by the inviting party or the Mayor's Office.
- 10.2 Mayors will also be asked to:-

- a) write “thank you” letters after engagements;
- b) write a foreword or letter for certain publications;
- c) write letters of greeting to mayors of overseas towns being visited by local organisations;
- d) send messages to members of the Royal Family or others on special occasions.
- e) write letters of condolence;
- f) make their own arrangements if they wish to keep a scrapbook.

- 10.3 Care should be taken when writing correspondence so as not to commit the Council to any action or expenditure without consultation with the Mayor’s Office. Correspondence should be written on the Mayoral stationary which can be obtained through the Mayor’s Office.

### **Correspondence**

- 10.4 All correspondence addressed to the Mayor is normally delivered to the Mayor’s office and opened by the Civic Services Manager. Mayors will be asked to give guidance on the opening of items marked private, confidential or personal.
- 10.5 Any correspondence addressed to the Mayor, which relates to the business of the Council, should be acknowledged by the Mayor’s Office and then passed to the relevant Manager/Director for a detailed reply/action.

### **Sealing of Documents**

- 10.6 The Mayor is one of two signatories to the many documents to be signed on the Council’s behalf each year. Mayors are also expected to sign/seal letters or forms of residence, etc required by foreign governments for, inter alia, the payment of pensions to their nationals living in the City. These signatories are done weekly and usually take place during the weekly meeting with the Mayor’s Office. It is usual for correspondence, engagements, etc to be dealt with at the same time (see below). The Civic car is not provided to transport the Mayor to these weekly meetings.

## **11. TOWN TWINNING**

- 11.1 The Town Twinning Association is responsible for twinning arrangements with other towns and during the course of the year there may be requests for the Mayor to attend events in either Annonay or Backnang. Some of these requests may be from the Twinning Association either locally or in Annonay or Backnang.
- 11.2 Invitations to the Mayor should come from the Mayor of Annonay or Backnang and not the Twinning Association and a clearly defined Civic objective for the visit should be established. The invitation will then be taken to the Mayoral Working Group who will determine if the visit is appropriate.

- 11.3 Those in the Mayoral Party participating in visits to Chelmsford's twinning partners would normally be expected to meet the costs associated with those visits, including travel, accommodation and subsistence.

## **12. MAYORAL OFFICE & SUPPORT STAFF**

- 12.1 The following staff of the Mayoral Team provide, where possible, day to day support for the Mayoralty and to members of the Council generally:
- a) Civic Services Manager
  - b) Mayor's Chauffeur & Macebearer
- 12.2 Attention is drawn to paragraph 13 where it is emphasised that staff resources are not available for significant fund-raising activities.

## **13. USE OF THE MAYOR'S PARLOUR**

- 13.1 The use of the Parlour is generally at the Mayor's discretion but only for duties directly related to the Office. However, there may be occasions when it is required for non-mayoral, but civic use.

## **14. ROLE OF THE MAYORAL WORKING GROUP**

- 14.1 The Mayoral Working Group comprises the following:
- a) Mayor
  - b) Deputy Mayor
  - c) Leader of the Council
  - d) Opposition representative(s)
  - e) Chief Executive
  - f) Mayor's Office representatives
- 14.2 The Mayoral Working Group will meet at regular intervals during the year to discuss Civic matters and will be available to meet on an ad hoc basis should the need arise.
- 14.3 The following items come within the remit of the Mayoral Working Party:
- a) Mayoral Protocol
  - b) Mayoral Engagements
  - c) Civic Events
  - d) Honorary Freeman and Freedoms
  - e) Town Twinning
- 14.4 The Mayoral Working Group will also meet with the Mayor designate to provide guidance for the forthcoming year.





**REGALIA- USE AND CUSTODY**

1. The Council determined in November 1977 (Min 1, 347, 1977) that the Mayor, Deputy Mayor and the Chief Executive would robe on the following occasions:
  - a) All meetings of the Council\*
  - b) The Civic Service
  - c) Remembrance Sunday
  - d) The Justice Service
  - e) Visits of Royalty (unless otherwise requested)
  - f) Such other occasions as the Mayor may consider necessary
2. The Chief Executive now robes only for Annual Council.
3. Robes may also be worn on exceptional occasions such as the death of a Lord Lieutenant or a former holder of that office. However, this must be agreed by the Mayoral Working Group.
4. The Mayoral Working Group has also agreed that the Mayoralty is able to wear their robes at the Costermongers Harvest Festival in London and also the Writtle and Anglia Ruskin University Graduation (when the Professors will also be robed).
5. Robes, so far as the Mayor and Deputy are concerned, comprise the gown, jabot, gloves and hat (the last two items are generally carried but when the hat is worn the embellishment is worn on the right).
6. The Ceremonial Chain of Office is over 100 years old; it is fragile and costly/difficult to repair. For this reason it is only worn on civic occasions when the robes are worn and also when the Mayor is in the presence of Royalty or the Lord Lieutenant. If there is a risk of its security at any of these events it should not be worn. For all other occasions a second Mayoral Chain has been purchased which will be worn for the majority of Mayoral engagements.
7. Taking account of the above, the general principles relating to the wearing of regalia are as set out in the following table.

|     | EVENT   | APPROPRIATE REGALIA  |
|-----|---|--|
| (a) | Council organised civic events, e.g. Civic Lunch for Mayors/Chair of Essex Authorities, Civic Service, Community Evening including occasions as set out above when the Mayor is robed (Royalty not present) | Mayoral Chain and badge  |
| (b) | Opening of public buildings, unveiling of plaques, etc. or any function connected with the business of the Council  | Mayoral Chain and Badge  |
| (c) | Non-civic dinners, luncheons and receptions   | Mayoral Chain and Badge  |
| (d) | Non-civic functions within the City at which Royalty/Lord Lieutenant is present (Lieutenancy Office to be informed)   | Mayoral Chain and Badge. Robe if requested by the organisers.  |
| (e) | Cathedral and Church services, (excluding Civic service and where Royalty not present)  | Mayoral Chain and Badge  |
| (f) | Charity events, fetes, bazaars, garden parties, meetings, etc., within the City   | Normally Mayoral Chain. Otherwise, Badge on corporate collarette   |
| (g) | Functions outside the City  | <p>The Mayoral Working Group has agreed that the Mayor is able to wear their robes and ceremonial chain to the Costermongers Harvest Festival in London.</p> <p>If the Mayor/Chair of the City/District is hosting a function and requests for the Mayor to wear robes etc. then this is acceptable.</p> <p>The Mayoral Chain and Badge as requested by the organisers and agreed by Mayor/Chair of the City/District where function is held.</p> <p>If any other requests are made for the Mayoralty to wear robes outside of the City then this must be agreed by the Mayoral Working Group.</p> |
| (h) | Royal Garden Parties  | As advised by the Lord Chamberlain's Office. Please note if the Mayoralty has  |

|     |   |   |
|-----|---|---|
|     |   | already attended the Royal Garden Party in any capacity then they will be unable to attend again. This is stipulated on the invitation by Lord Chamberlain's Office.  |
| (i) | Funerals of Members of the Council/Past Mayor's | <p>Under no circumstances will the Mayor's Office approach the family of the deceased to enquire if they would like the Mayor to attend the funeral in their position as Mayor. This is seen as putting undue pressure on the family to host the Mayor.</p> <p>If the Mayor is not formally invited to the funeral, but wishes to attend, they will attend as a councillor and will not wear any chains/badges and will drive themselves.</p> <p>However, if the Mayor is formally invited to attend the funeral of a member of the Council or a Past Mayor (in their position as Mayor) the Mayor's Office will enquire whether the family would like the Mayor to wear their ceremonial chain and badge or badge and corporate collaret. Only if it is confirmed that they do, will they wear these. The Mayor will also only be chauffeur-driven to the funeral where they have been asked to attend in that official capacity.</p> <p><u>The Mayor will on no occasion wear full robes.</u></p> |

8. When attending regular meetings of the organisations of which the Mayor is Patron, it is not appropriate for the Mayor to wear any regalia.
9. When not in use, the robes (Mayor's and Deputy Mayor's) and ceremonial chains (Mayor's and Mayoress'/Consort's) are kept under secure conditions in the Mayoral Safe. On appropriate occasions, regalia and robes are on view to visitors in the Civic Centre. Regalia and robes should not usually be removed from the Civic Centre for viewing elsewhere.
10. The Mayor, Mayoress/Consort, Deputy Mayor, Deputy Mayoress/Consort are responsible for the safe keeping of their mayoral chains, badges and corporate collarettes. These should be kept in their case/pouches at all times, when not in use. In the event of any of the Mayoral party being away from home for more than a few days, the chains and badge(s) should be returned to the Mayor's Office for safe keeping.

**Past Mayor's Badge**

11. At the end of the Mayoral Year, the Mayor and Mayoress/Mayor's Consort will be presented with Past Mayor and Past Mayoress/Mayor's Consort Badges.
12. Past Mayor's Badges should only be worn at civic events when the Mayor is in attendance as below:
  - a) Reception after the Annual Council Meeting
  - b) Civic Service
  - c) Remembrance Sunday
  - d) Tree Planting
  - e) Christmas Reception
  - f) Community Evening
13. Should any other occasions or events arise during the course of the Mayoral year, then the invitation or notification will clearly show that Past Mayor's Badges may be worn if appropriate.

## EVENTS AND PROCEDURES

### **1. Procedure when Mayor is to Unveil**

- 1.1 In the case of a City function such as an “Opening”, a “Presentation” or an “Unveiling” the following procedures are suggested.
- (i) An officer will be nominated to be responsible for ensuring that all necessary introductions are made either before the event begins or at a later appropriate point.
  - (ii) When the guests are assembled an officer should call for silence.
  - (iii) The Mayor should make a brief welcoming address and may touch briefly on the reason for the gathering and perhaps express his/her personal pleasure at being present.
  - (iv) The appropriate Cabinet Member then makes the core speech of the occasion, since he/she will normally have the most thorough knowledge of the reasons for, and the background to, the occasion.
  - (v) The Cabinet Member invites the Mayor to “Unveil”, “Present”, or “Cut the Ribbon” etc. This is the point when photographs may best be taken. The Press Officer attending will be responsible for determining what photographs are to be taken. The Cabinet Member should be included in official photographs and the Press Officer should brief the press accordingly. (However, it is recognised that the press may wish to limit the number of people appearing in the photograph.)
  - (vi) The Cabinet Member makes a final comment and thanks the Mayor for “doing the honours”. Presentations of flowers, et al, to the Mayor/Mayoress may be made.
  - (vii) Mayor thanks people for coming and/or invites them to join him/her for refreshments.

### **2. Procedure when the VIP is to Unveil**

- 2.1 The procedure will be as in paragraph 1.1 with substitution of the following for 1.1 (v) and 1.1 (vi) respectively:
- (v) The Cabinet Member invites the VIP to speak and then “Unveil;”, “Present”, or “Cut the Ribbon”. The Cabinet Member and the Mayor

should be included in photographs.

- (vi) The Cabinet Member makes closing comment and thanks both the Mayor and VIP for their part. Presentations to Mayor, Mayoress and/or VIP and/or spouse may take place.

### **3. Procedure when a Joint Unveiling is to take place**

- 3.1 The procedure will be as in paragraph 1.1 except that both the Mayor and VIP will be invited to “Unveil”, “Present”, or “Cut the Ribbon” together.

### **4. Events at the Civic Centre (Mayor’s Parlour)**

- 4.1 Where the event is held in the Mayor’s Parlour then:

- (i) At the beginning of the event the Mayoral Party would normally greet guests, individually, as they arrive; and
- (ii) At the end of the event the Mayor will normally remain until all or nearly all guests have departed. VIPs will depart before the Mayor departs.

### **5. Events away from the Mayor’s Parlour**

- 5.1 If the event is away from the Civic Centre (but nevertheless on City Council premises), e.g. museums, theatres or tree planting then:

- (i) The guests should assemble before the Mayor arrives.
- (ii) The Mayor should be greeted by a senior officer or the appropriate Cabinet Member; and
- (iii) The Mayor departs at the conclusion of the event – but a degree of judgement may need to be exercised over the timing of the departure.

### **6. Visits to Chelmsford by VIPs**

- 6.1 Subject to paragraph 6.2 below, in the case of visits by VIPs at the invitation of the City Council (including, for example, a Government Minister acting in their official capacity) the following procedures are suggested:

- (i) The Mayor’s Office should be consulted at the initial stage.
- (ii) The Mayor should normally be the first person to greet the VIP formally on City Council premises or at a City Council event but see paragraph 10 of the Notes. It may be appropriate for a senior officer to meet the VIP at the station or helicopter landing site and escort them to the Mayor.

- (iii) Mayor introduces the VIP to principal Council representatives, e.g. Cabinet Member, Chief Executive and Director.
- (iv) Cabinet Member introduces other relevant persons.
- (v) The official programme should begin with a brief welcome address from the Mayor.
- (vi) The Cabinet Member should then continue to lead the visit.
- (vii) The Mayor should accompany the VIP throughout the visit.

6.2 Where the purpose of the visit or part of the visit involves the making of representations or the carrying out of negotiations on behalf of the Council it will not be usual for the Mayor to be involved.

## **7. Council Arranged Annual Events**

The expenditure for these events is met from the Mayor's Hospitality Allowance managed by the Civic Services Manager.

### **7.1 Reception after the Annual Council Meeting**

Councillors, Chief Executive, Directors, Past Mayors, Widows/Widowers of Past Mayors, Designated Independent Person, Honorary Freeman, Parish councillors who help on committees.

The Mayor and Deputy Mayor may invite personal guests to attend the Reception. The maximum that can be accommodated is approximately 150.

### **7.2 Refreshments after Council meetings**

Light refreshments are provided in the Civic Foyer after Council Meetings for Councillors, Chief Executive, and Directors.

### **7.3 Christmas Reception**

Councillors, Chief Executive, Directors and their spouses are invited.

#### **7.3.1 Civic Service**

The Civic Service is a formal occasion held at the Cathedral shortly after the Mayor takes office. The Order of Service is determined by the Mayor and Dean, or other Minister, via the Mayor's Office. Invitations are sent to Dignitaries, MPs, Councillors, Chief Executive, Directors, Past Mayors, Widows/Widowers of Past Mayors, Honorary Freeman, Neighbouring Civic Heads, representatives from local organisations e.g. Health Service, Police and



personal guests of the Mayor and Deputy. Guests are invited back to the Civic Centre for refreshments.

#### 7.3.2 End of Term Service

The service will usually be held in the church managed by the Mayor's Chaplain towards the end of their term of office.

The End of Term Service is not a Civic event and is an informal occasion with no procession.

The Mayor's office has limited involvement in the organising of the event. It will however assist with sending invitations to Councillors, Chief Executive, Directors, members of staff, Neighbouring Mayors (that have shared the same term of office) and personal guests. The Mayor's Office will also assist with coordinating replies.

The Order of Service is produced by the Mayor and his/her Chaplain and the Mayor's office will coordinate and fund the printing of these. However, no other cost will be incurred by the Mayor's Office.

The Service is normally followed by coffee and biscuits which are provided by the host Church; if the Mayors requires something more substantial they would need to cover the cost themselves.

#### 7.4 Community Evening (March)

The theme of the event, guest list, format and menu choices are usually chosen by the Mayor and agreed with the Mayoral Working Group. The guest list includes dignitaries, Councillors, nominees made by Councillors based on the Mayor's theme and any other specific guests the Mayor would like to invite based on their theme. No personal guests are invited to this occasion.

#### 7.5 Remembrance Day (Second Sunday in November)

The Mayor's Office coordinates a planning meeting in September at the Civic Centre, this is attended by ex-service organisations, police and others. Detailed arrangements are well-established. The Dean usually conducts the Service.

It is usual to invite 2 or 3 military officers to join the Mayoral Procession from the Parlour to the front steps. A police officer usually accompanies the Mayor when the salute is taken.

After the Service refreshments are served in the Civic Foyer.

#### 7.6 Tree Planting

This is usually held at the end of November/beginning of December to coincide with National Tree Week. The Mayor is consulted on choice of site and tree with advice from Parks and Green Spaces Services. The Ceremony is usually followed by coffee, biscuits etc. in a local village hall. The Mayor's Chaplain is involved in the Ceremony, along with the Cabinet Member for Public Places. Guests include Councillors and personal guests.

#### 7.7 Visits to Parlour

These arise in two ways:

- (i) At the request of an organisation, school, foreign students or visitors on an exchange visit to a local school or group; or
- (ii) At the invitation of the Mayor to an organisation or, for example, a school where the Mayor may be a Governor.

In the case of school children, students or those of similar age, the visits comprise:-

- a talk in the Mayor's Parlour about the history of the Office of Mayor, the Regalia etc.
- a further talk in the Council Chamber (if available) on what the Council and Committees do, how they work, where various Members, etc. sit
- photographs in Council Chamber or Mayor's Parlour
- refreshments served in the Foyer.

#### 8. **External Annual Events**

The Mayor is also expected to attend many external events, by invitation of the organisations concerned. Of these, some of the more important are as follows and attendance should be given priority over any other event:

##### 8.1 Royal Garden Party (July)

As mentioned in Appendix 5.4.h if the Mayoralty has already attended the Royal Garden Party in any capacity then they will be unable to attend again. This is stipulated on the invitation by the Lord Chamberlain's Office.

##### 8.2 Justice Service (October)

(Detailed arrangements are made by the Under Sheriff)

## CONSTITUTION PRACTICE NOTE

### COUNCIL MEETINGS MOTIONS AND AMENDMENTS

#### **Purpose of this Practice Note**

This Practice Note is intended to provide guidance to the Mayor and councillors on the process to be followed at Council meetings on motions and amendments to motions. It should be noted that amendments to motions, including those relating to budget setting require notice to be given in advance of the meeting.

The general procedures described in sections 1 to 4 below also relate to Cabinet and committee meetings, although in those cases the time limits referred to do not apply.

#### **Motions on Report Recommendations**

The Practice Note sets out the scenarios most likely to arise in considering motions relating to recommendations in reports to the Council. These are set out in the worked examples given in sections 1 to 4 below.

#### **Notices of Motion**

Those four options also exist in the case of Notices of Motion at Council meetings but in that case a fifth option also exists, as described in 5 below.

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#### **1. ORIGINAL MOTION IS DEBATED AND VOTED UPON WITHOUT ANY NOTICE OF AMENDMENTS BEING GIVEN**

##### *Scenario*

- The report's recommendations will be moved, seconded, discussed and agreed without any amendments being moved.

##### *Procedure:*

- 1.1 The recommendation(s) in the report are moved by the relevant Cabinet Member or Chairman, who may speak for up to 10 minutes.
- 1.2 The motion must be seconded or it cannot be discussed. The seconder may reserve the right to speak until later in the debate. They may speak for up to five minutes.
- 1.3 The debate ensues, with no amendments being moved.
- 1.4 Any councillor may speak only once for up to five minutes.
- 1.5 When it looks as though no other members want to speak, and before the motion is put to the vote, the mover of the motion should be given the right of reply. Mayor to say **"As no other members have indicated they wish to speak to the motion I will ask Councillor ... to reply."**
- 1.6 After they have spoken, Mayor to say **"Would those in favour of the motion**

**please indicate.”** Pause for counting. **“Those against.”** Then declare the motion carried or lost.

## 2. **AMENDMENT MOVED - VOTED ON - BUT LOST**

*Scenario:*

- The recommendation(s) will be moved and seconded.
- An amendment will then be moved, seconded and discussed, but lost when being put to the vote.
- Discussion will then return to the original motion to approve the recommendation(s) as presented.

*Procedure:*

- 2.1 The recommendation(s) in the report are moved by the relevant Cabinet Member or Chairman, who may speak for up to 10 minutes.
- 2.2 The motion must be seconded or it cannot be discussed. The seconder may reserve the right to speak until later in the debate. They may speak for up to five minutes.
- 2.3 An amendment is moved. The mover may speak for up to five minutes.
- 2.4 It must be seconded or it cannot be discussed. The seconder may reserve the right to speak. The seconder may speak for up to five minutes.
- 2.5 If it is **not seconded** Mayor to say **“As the amendment has not been seconded, we will now debate the original motion”**.
- 2.6 If the amendment **is seconded**, any councillor can then talk on the amendment for up to five minutes each.
- 2.7 When it looks as though no other members want to speak, and before the amendment is put to the vote, the **mover of the original motion** should be given the right of reply. Mayor to say **“As no other members have indicated they wish to speak to the amendment I will ask Councillor .... to reply.”**
- 2.8 The amendment is lost. The debate returns to the original motion.
- 2.9 Each other councillor may speak only once for up to five minutes provided they had not already spoken before the amendment was moved.
- 2.10 The **mover of the original motion** will have the right of reply at the end of the debate and before the motion is put to the vote. Mayor to say **“As no other members have indicated they wish to speak I will ask Councillor ... to reply.”**
- 2.11 After they have spoken, Mayor to say **“Would those in favour of the motion to approve the recommendation(s) in the report please indicate.”** Pause for counting. **“Those against.”** Then declare the motion carried or lost.

3. **AMENDMENT MOVED – AGREED BY MOVER OF ORIGINAL MOTION – DEBATE AND VOTE TAKEN ON THE AMENDED MOTION ONLY**

*Scenario*

- The recommendations will be moved and seconded.
- An amendment will then be moved, seconded and agreed by the mover of the original motion.
- The amended motion then becomes the agreed motion for debate and will be discussed.

*Procedure:*

- 3.1 The recommendation(s) in the report are moved by the relevant Cabinet Member or Chairman, who may speak for up to 10 minutes.
- 3.2 They are seconded. The seconder may reserve the right to speak until later in the debate. They may speak for up to five minutes.
- 3.3 An amendment is moved. The mover may speak for up to five minutes.
- 3.4 It must be seconded or it cannot be discussed. The seconder may speak for up to five minutes.
- 3.5 Any councillor can then talk on the amendment for up to five minutes each, but if the mover of the original motion accepts the amendment they are likely to say so soon after it has been moved and there will be no need for further discussion on it. If they agree the amendment then Mayor to say **“As the amendment has been agreed by Councillor ..., we will now discuss the amended motion and vote on it”**.
- 3.6 The debate ensues.
- 3.7 Each other councillor may speak only once for up to five minutes.
- 3.8 The **mover of the original motion** will have the right of reply at the end of the discussion before the vote is taken. Mayor to say **“As no other members have indicated they wish to speak I will ask Councillor ... to reply.”**
- 3.9 After they have spoken, Mayor to say **“Would those in favour of the motion as amended please indicate.”** Pause for counting. **“Those against.”** Then declare the motion carried or lost.

#### 4. **AMENDMENT MOVED - VOTED ON AND AGREED – DEBATE AND VOTE ON THE AMENDED MOTION**

*Scenario:*

- The recommendations will be moved and seconded.
- An amendment will then be moved, seconded and discussed and agreed when put to the vote.
- Discussion will then continue on the amended (substantive) motion before it is put to the vote and agreed.

*Procedure:*

- 4.1 The recommendation(s) in the report are moved by the relevant Cabinet Member or Chairman, who may speak for up to 10 minutes.
- 4.2 They are seconded. The seconder may reserve the right to speak until later in the debate. They may speak for up to five minutes.
- 4.3 An amendment is moved. The mover may speak for up to five minutes.
- 4.4 It must be seconded or it cannot be discussed. The seconder may speak for up to five minutes.
- 4.5 The debate on the amendment ensues. Any councillor may speak once for up to five minutes.
- 4.6 When it looks as though no other members want to speak, and before the amendment is put to the vote, the mover of the original motion should be given the right of reply. Mayor to say **“As no other members have indicated they wish to speak to the amendment I will ask Councillor ... to reply.”**
- 4.7 After they have spoken, Mayor to say **“Would those in favour of the motion as amended please indicate.”** Pause for counting. **“Those against.”** Then declare the motion carried or lost.
- 4.8 Assuming it is agreed, Mayor to say **“The original motion is now before the Council with the agreed amendments. Before we go to the vote on the amended motion does any member wish to speak further?”**
- 4.9 If they do wish to speak follow the full process below. However, if no member indicates they wish to speak go to paragraph 4.12.
- 4.10 The debate ensues.
- 4.11 Each other councillor may speak only once for up to five minutes.
- 4.12 The **mover of the original motion** will have the right of reply at the end of the discussion before the vote is taken. You should say **“As no other members have indicated they wish to speak I will ask Councillor ... to reply.”**
- 4.13 After they have spoken, Mayor to say **“Would those in favour of the motion as amended please indicate.”** Pause for counting. **“Those against.”** Then declare the motion carried or lost.

5. **NOTICES OF MOTION** – As well as the above four scenarios, there exists a fifth for Notices of Motion, which is described below.

**IT IS MOVED THAT THE NOTICE OF MOTION IS REFERRED TO CABINET WITHOUT DEBATE**

*Scenario*

- The notice of motion will be moved and seconded.
- A member of the Administration Group member will move that the motion is referred to the Cabinet for consideration without debate.
- If that motion is agreed the item is complete but if not the original motion must be debated and voted on in the usual way.

*Procedure:*

- 5.1 The proposal in the notice of motion will be moved. The mover may speak for up to 10 minutes.
- 5.2 The motion is seconded. The seconder may reserve the right to speak until later in the debate. They may speak for up to five minutes.
- 5.3 A member of the Administration Group must then be invited to speak.
- 5.4 They will move that the motion be referred to the Cabinet. (A motion to refer may be moved at this stage or later on in the debate.)
- 5.5 That motion must be seconded.
- 5.6 The motion will be put to the vote without further discussion. The mover of the notice of motion will not have the right of reply.
- 5.7 Mayor to say **“There has been a motion to refer the matter to the Cabinet for consideration. Would those in favour please indicate?” Then “Those against.”**
- 5.8 If **carried**, the motion stands referred to the Cabinet and the item is concluded with no further debate.
- 5.9 If **not carried**, the debate continues in the normal way.
- 5.10 Any councillor may speak only once for up to five minutes.
- 5.11 When it looks as though no other members want to speak, and before the motion is put to the vote, the mover of the notice of motion should be given the right of reply. Mayor to say **“As no other members have indicated they wish to speak I will ask Councillor ... to reply.”**
- 5.12 After they have spoken, Mayor to say **“Would those in favour of the motion please indicate?” Then “Those against.”** Then declare the motion carried or lost.

## CONSTITUTION PRACTICE NOTE

### A GUIDE TO THE CHELMSFORD CITY COUNCIL PETITIONS SCHEME

#### **1. How will the Council deal with my petition?**

- 1.1 Chelmsford City Council welcomes petitions and recognises that they are one of many ways in which people can let us know about their concerns and participate in the democratic process. Our petitions scheme sets out how the Council will deal with petitions that meet the criteria set out in the scheme.
- 1.2 Petitions are not the only way to resolve an issue or make your views known. You could also
- Write to the appropriate Director or Cabinet Member
  - Contact your local Councillor
  - Make a suggestion through the Council's website
  - Respond to consultations
- 1.3 If you submit a petition you should
- Clearly state that the petition is directed at Chelmsford City Council
  - Clearly identify the petition organiser
  - Indicate which of the Council's functions or powers it relates to
  - Say clearly what you want the Council to do
- 1.4 People signing the petition can be any age and should provide an address or postcode that shows that they live, work or study in Chelmsford.

#### **2. Petition organiser**

- 2.1 The petition organiser is the person we will contact about the petition. If no organiser is identified we will contact people who signed the petition to agree who should act as the petition organiser. If no such person can be identified the petition may not be accepted.

#### **3. Sending in your petition**

- 3.1 Petitions can be sent to:

Legal and Democratic Services Manager  
Chelmsford City Council  
Civic Centre  
Duke Street  
Chelmsford  
CM1 1JE



- 3.2 The Council does not provide an online or electronic petitions system but if you have created a petition by this means its existence and submission should also be notified to the Legal and Democratic Services Manager.

#### 4. What happens next?

- 4.1 We will send an acknowledgement to the petition organiser within 10 working days of its receipt. The acknowledgement will include details of how the petition will be dealt with under the scheme and, where possible, will provide information about the action that will be taken in response to the petition.

#### 5. How will we respond to your petition?

- 5.1 Our response will depend on what the petition asked for and how many people signed it.

| <i>Category</i>  | <i>Description</i>   | <i>Signature threshold</i> |
|--|--|----------------------------|
| <i>Petition requiring a debate</i>   | A petition above the threshold that will trigger a debate at a meeting of the full Council, if that is what has been requested (or its referral to the Cabinet if it is an Executive matter) | 2000                       |
| <i>Ordinary Petition</i>   | Another non-excluded* petition which requests action or a response within six weeks  | 50                         |
| Petitions below the 50 signature threshold will be referred to the appropriate service for a response  |  |                            |
| <p>*Some petitions are excluded from the scheme and will be dealt with differently. For example, we will take no action on your petition if it is vexatious, abusive, causes offence or is otherwise inappropriate. Other exemptions from the scheme include petitions:</p> <ul style="list-style-type: none"> <li>• relating to planning or licensing applications</li> <li>• where there is a statutory right of appeal</li> <li>• that do not concern a power or duty of the Council</li> </ul> |  |                            |

#### 6. Who can I contact?

- 6.1 If you have any questions you can contact the Democracy Team Manager on 01245 606923 or by email to [committees@chelmsford.gov.uk](mailto:committees@chelmsford.gov.uk)
- 6.2 You can download a copy of the full Petitions Scheme here.

## CONSTITUTION PRACTICE NOTE

### PROCESS FOR DEALING WITH PLANNING APPLICATIONS DELEGATED TO THE DIRECTOR OF SUSTAINABLE COMMUNITIES

1. The Director of Sustainable Communities (DSC) determines 97% of all planning applications. Paragraph [3.4.2\(h\)\(xix to xxvii\)](#) of the Council's Constitution shows when an application should be referred to the Planning Committee
2. All applications to be determined under the DSC delegation are the subject of a written report (known as a "Delegated Report") by the case officer together with a recommendation that the application is approved or refused
3. Each Delegated Report sets out:
  - a) The views of those consulted and the content of any objections or support.
  - b) Details of the relevant policies in the Development Plan, the relevant planning history of the site and any other relevant information.
  - c) The recommended decision based on an assessment of the above considerations.
4. The person exercising the delegated authority must make the decision based on the legal test, which is that the application should be determined in accordance with the Development Plan unless Material Considerations indicate otherwise. Material Considerations are wide ranging and include such matters as;
  - disturbance to neighbouring occupiers
  - visual impact
  - traffic impact
  - other environmental issues
  - they do not include impact on property values or the right to a view

There are a number of others, please see practice note on [Material Considerations](#)

5. No delegated authority is exercised before the expiration date of any consultation or notification period on the application.
6. Decisions on delegated applications are not made at any specific meeting of officers but are dealt with by any individual officer having the requisite delegated authority on an "as and when ready" basis.

7. If an applicant disagrees with the decision s/he may be able to appeal to the Secretary of State against that decision in the same way as if a decision had been made by Councillors in Committee
8. Once decided a copy of the Delegated Report is made publicly available. Please click [here](#) to go to the Council's public access area for planning applications.

## CONSTITUTION PRACTICE NOTE

### COUNCILLOR MEETINGS WITH APPLICANTS, DEVELOPERS, OBJECTORS AND SUPPORTERS

Lobbying is a normal part of the planning process and can affect all councillors. Those who may be affected by a planning decision will sometimes want to influence a councillor either on the Planning Committee or a local Ward Member to favour their position. It is appropriate that councillors participate in this process but there are a number of matters that should be borne in mind. The following must be taken into consideration depending on the circumstances.

#### General advice applicable to all Councillors

1. If a member of the public asks for advice on how the planning process works which goes beyond general principles but into more technical material; like the interpretation of local and national policy, then this must be referred to the planning officers. The planning officer will understand the full technical background and engage with the applicant and objectors. It is inappropriate for a Councillor to offer advice as it could affect the guidance already given.
2. Any request for pre- application advice or meetings with a councillor should involve a planning officer to avoid the possibility that the councillor is drawn into giving technical advice for the reasons given above.
3. If a councillor thinks that a meeting with an applicant, developer , objector or supporter is likely to be viewed as prejudicial to the process being conducted fairly, then they should decline to meet or only do so in the presence of a planning officer eg where an application is highly controversial. If in doubt seek advice from the Planning Team.

#### Specific additional requirements for Planning Committee Members

4. If a Committee Member decides to meet any person interested in an application it is important that a councillor should not be drawn into stating how they will vote or indicates that they have finally decided the matter so that it could be said that they have “closed their mind” to being influenced in a different direction. If in doubt; or if you have a closed mind, or have predetermined the application, then advice should be sought from the Legal Services Team. If a councillor finds that they are being encouraged to express a final view then they should say that they will only reach a final view at the Committee when they will be exposed to all the relevant material and planning considerations. If a councillor has already predetermined a planning decision then they must not participate in the decision making.

If you are in any doubt please seek clarification from the Monitoring Officer.

# CONSTITUTION PRACTICE NOTE

## PLANNING COMMITTEE SITE VISITS

### Purpose

The Planning Code of Good Practice sets out when it is appropriate for the Planning Committee to make a site visit in connection with a planning application. The purpose of this Practice Note is to set out the approach to those site visits.

Councils are advised to have a clear and consistent approach on when and why to hold a site visit and how to conduct it. This helps to avoid accusations that visits are arbitrary, unfair or a covert lobbying device. The Committee should be aware that site visits can cause delay and additional costs, for both the Developer and the Council, and should only be used where there are good reasons.

All Members of the Committee should endeavour to attend site visits to ensure they are fully apprised of all the relevant information prior to making a decision on the application. It is not normally acceptable for a Member to visit the site alone as they are only entitled to view the site from public vantage points and have no individual rights to enter private property.

When the application is taken back to Committee after the site visit only Members of the Committee who attended at the Committee Meeting when the site visit was agreed and who attended the arranged site visit are eligible to decide the application. This is because the information gained from visit forms part of relevant material that is required to make an informed decision on the application. If a Member who has not attended the site visit wishes to vote they should state the reason why they have not attended the arranged site visit and confirm that they have all the facts required to make an informed decision

### Organisation

1. All Members of the Planning Committee and the Ward Members shall be invited to the site visit.
2. The time and date of the site visit will be agreed with the chair and notified to the relevant persons and parties by the Democratic Services Officer.
3. The Director of Sustainable Communities should obtain the consent of the landowner before the site visit is carried out.
4. If the Applicant, Agent or other third party (including a statutory consultee) are present for the site visit they must stand apart from the Committee. The attending planning officer will explain that they are permitted to point out certain features of the land that they consider relevant but must not make any comments about the application itself.
5. There shall be no discussion during the site visit regarding the merits of the proposed development and decisions on the relevant planning application,

unless specifically requested by the Committee Chairman in order to answer questions of fact.

6. No lobbying of Members of the Committee will be allowed.

## CONSTITUTION PRACTICE NOTE

### STATUTORY AND PROPER OFFICER APPOINTMENTS

1. The Local Government Act 1972 and the Local Government and Housing Act 1989 require local authorities to make specific statutory appointments to carry out defined responsibilities. Those appointments are set out in Appendix A.
2. The 1972 Act also makes provision for certain officers to be designated by their employing authority as the “Proper Officer” to carry out particular functions under various Acts of Parliament. Designations as Proper Officers are set out in Appendix B.
3. Any statutory or proper officer authority may be exercised in the name of the statutory or proper officer by any senior officer authorised in writing to do so by the statutory or proper officer. All such authorisations must be sent to the Legal and Democratic Services Manager and will be recorded and open to public inspection.
4. Where not prohibited by statute the Chief Executive is appointed Alternative Proper Officer in respect of all functions in the event that the appointed Proper Officer is unable to act and no other officer has been authorised. Article 13 of the Constitution sets out the restrictions on the designation of statutory officers.
5. In accordance with the arrangements described at the end of Part 3.4.2 (a) of the Constitution, the appropriate Director will be the appointed Alternative Proper Officer for those functions where the Chief Executive is the Proper Officer and is unable to act.
6. Until the Council decides otherwise the Chief Executive or the appropriate Director is appointed the Proper Officer for the purpose of all statutory provisions, whether existing or future, in respect of which no express Proper Officer appointment has, for the time being, been made.
7. Every appointment hereby made in relation to a provision that is replaced or re-enacted shall be effective as an appointment of the same officer in relation to the corresponding new provision.
8. In Appendix B any reference to “Directors” includes the Chief Executive. In accordance with Article 2.16.3 the Legal and Democratic Services Manager shall have authority to amend the designation of Proper Officer responsibilities to reflect any change in the organisation of the Council’s services.

## Appendix A

| <u>LEGISLATION</u>                                    | <u>STATUTORY OFFICER</u> | <u>ALLOCATED TO</u>                      |
|---|--------------------------|--|
| Section 4<br>Local Government and<br>Housing Act 1989 | Head of Paid Service     | Chief Executive                          |
| Section 151<br>Local Government Act<br>1972           | Chief Financial Officer  | Chief Financial Officer                  |
| Section 5<br>Local Government and<br>Housing Act 1989 | Monitoring Officer       | Legal and Democratic<br>Services Manager |

See also Article 13 of the Constitution



Appendix B

| <u>Ref.<br/>No.</u>          | <u>LEGISLATION<br/>(in date order)</u> | <u>ROLE OR FUNCTION</u>  | <u>PROPER OFFICER</u>                 |
|------------------------------|--|--|---------------------------------------|
| <u>1. General provisions</u> |  |  |                                       |
| 1.1                          | N/A                                    | Any reference in any public or local statutory provision to the Proper Officer of the Council, except as provided in this Appendix   | Chief Executive                       |
| 1.2                          | N/A                                    | Any reference to the town clerk in any enactment passed before or during the 1971-72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26 October 1972 which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council         | Legal and Democratic Services Manager |
| 1.3                          | N/A                                    | Any reference in any local statutory provision to the clerk of the Council or similar which, by virtue of an order made under the Local Government Act 1972 or the Local Government Act 1992 is to be construed as a reference to the Proper Officer of the Council  | Legal and Democratic Services Manager |
| 1.4                          | N/A                                    | Any reference to the Treasurer in any enactment passed before or during the 1971-72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26 October 1972 which, by virtue of any provision of the said Act, is to be construed as a reference to the Chief Financial Officer of the Council | Chief Financial Officer               |
| 1.5                          | N/A                                    | Any reference in any local statutory provision to the Treasurer of a specified Council or the Treasurer of a specified borough which, by virtue of order made under Section 254 of the Local Government Act 1972 or the Local Government Act 1992, is to be construed as a reference to the Proper Officer of the Council              | Chief Financial Officer               |

| <u>Ref.<br/>No.</u> | <u>LEGISLATION<br/>(in date order)</u> | <u>ROLE OR FUNCTION</u> | <u>PROPER OFFICER</u> |
|---------------------|--|-------------------------|-----------------------|
|---------------------|--|-------------------------|-----------------------|

## 2. Primary Legislation

### **LOCAL GOVERNMENT ACT 1972**

|      |               |   |                                       |
|------|---------------|---|---------------------------------------|
| 2.1  | S13(3)        | Acting as a Parish Trustee  | Chief Executive                       |
| 2.2  | S83(1)-(4)    | Witness and receipt of declaration of acceptance of office                  | Chief Executive                       |
| 2.3  | S84           | Receipt of declaration of resignation of office                             | Chief Executive                       |
| 2.4  | S88(2)        | Convening of meeting of Council to fill casual vacancy in office of Mayor   | Legal and Democratic Services Manager |
| 2.5  | S89(1)(b)     | Giving notice of casual vacancy   | Chief Executive                       |
| 2.6  | S94 & 96(2)   | Keeping of record of officer disclosures and notices of pecuniary interests | Legal and Democratic Services Manager |
| 2.7  | S96(1)        | Receipt of notices of officer pecuniary interests                           | Legal and Democratic Services Manager |
| 2.8  | S100(B)(2)    | Circulation of reports and agendas  | Legal and Democratic Services Manager |
| 2.9  | S100(B)(7)    | Supply of papers to press   | Legal and Democratic Services Manager |
| 2.10 | S100(C)(2)    | Summary of minutes  | Legal and Democratic Services Manager |
| 2.11 | S100(D)(1)(a) | Definition of background papers   | Legal and Democratic Services Manager |
| 2.12 | S100(F)       | Identification of confidential documents not open to Members                | Legal and Democratic Services Manager |
| 2.13 | S115(2)       | Receipt of money due from officers  | Director of Financial Services        |

|      |                  |   |   |
|------|------------------|---|---|
| 2.14 | S146(1)(a) & (b) | Declarations and certificates with regard to securities   | Chief Financial Officer   |
| 2.15 | S137A            | Receive statements in connection with the provision of financial assistance   | Chief Financial Officer   |
| 2.16 | S191             | Applications under S1 of the Ordnance Survey Act 1841   | Director of Sustainable Communities   |
| 2.17 | S204(3)          | Receipt of notice of an application for a justices' licence under Schedule 2 of the Licensing Act 1964  | Director of Public Places   |
| 2.18 | S210(6) & (7)    | Charity functions of holders of offices with existing authorities transferred to holders of equivalent office with new authorities – or if there is no such office, to the Proper Officer | Legal and Democratic Services Manager                                       |
| 2.19 | S222 and 223     | The officer who shall have responsibility for the conduct of legal proceedings on behalf of the Council   | Legal and Democratic Services Manager                                       |
| 2.20 | S225(1)          | Receipt of documents required to be deposited under any enactment or instrument with the Proper Officer of the Council  | Legal and Democratic Services Manager                                       |
| 2.21 | S228(3)          | Accounts – to be open for inspection  | Chief Financial Officer   |
| 2.22 | S229(5)          | Certification of documents  | Legal and Democratic Services Manager                                       |
| 2.23 | S234             | Signing notices, orders or other documents on behalf of the Council   | All Directors<br>See also Article 15 in respect of the sealing of documents |
| 2.24 | S234(2)          | Statutory Notices under various Public Health and associated legislation  | Director of Public Places   |
| 2.25 | S236(9) and (10) | Service of bye-laws on other authorities  | Legal and Democratic Services Manager                                       |
| 2.26 | S238             | Certification of bye-laws   | Legal and Democratic Services Manager                                       |

|      |                           |   |                                       |
|------|---------------------------|---|---------------------------------------|
| 2.27 | S248(2)                   | Keeping roll of Freeman   | Legal and Democratic Services Manager |
| 2.28 | Schedule 12 para. 4(2)(b) | Signature of summons to Council   | Legal and Democratic Services Manager |
| 2.29 | Schedule 12 para. 4(3)    | Receipt of notices regarding addresses which summons to meeting are to be sent  | Legal and Democratic Services Manager |
| 2.30 | Schedule 14 para. 25(7)   | Certification of resolutions under para. 25 applying certain provisions of the Public Health Acts throughout the Council's area | Legal and Democratic Services Manager |
| 2.31 | Schedule 16 para. 28      | Receipt of deposit lists of protected buildings   | Director of Sustainable Communities   |

#### **LOCAL GOVERNMENT ACT 1974**

|      |        |   |                 |
|------|--------|---|-----------------|
| 2.32 | S30(5) | Notice of Local Government Ombudsman report | Chief Executive |
|------|--------|---|-----------------|

#### **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

|      |     |  |                                       |
|------|-----|--|---------------------------------------|
| 2.33 | S41 | Certification of copies of resolutions, minutes, other documents | Legal and Democratic Services Manager |
|------|-----|--|---------------------------------------|

#### **RENT ACT 1977**

|      |                     |   |                           |
|------|---------------------|---|---------------------------|
| 2.34 | Schedule 15 Part IV | Certificates of provision of suitable alternative accommodation | Director of Public Places |
|------|---------------------|---|---------------------------|

#### **ANCIENT MONUMENTS AND ARCHAEOLOGICAL AREAS ACT 1979**

|      |     |  |                                     |
|------|-----|--|-------------------------------------|
| 2.35 | S1A | Receipt of information on the inclusion, amendment or exclusion, or a copy of any entry or amended entry in the Schedule of Ancient Monuments, relating to any Monument in the area of the Authority | Director of Sustainable Communities |
|------|-----|--|-------------------------------------|

### **REPRESENTATION OF THE PEOPLE ACT 1983**

|      |                |   |                                  |
|------|----------------|---|----------------------------------|
| 2.36 | S8             | Registration Officer for any constituency or part of a constituency coterminous with or contained in the Chelmsford Borough | Chief Executive                  |
| 2.37 | S9             | Duty to compile a register of electors  | Chief Executive                  |
| 2.38 | S35            | Returning Officer for the election of councillors for Chelmsford City Council   | Chief Executive                  |
| 2.39 | S81, 82 and 89 | Receiving elections expenses declarations and returns and making them available for public inspection                       | Chief Executive                  |
| 2.40 | S52(2)         | Officer who may do acts in respect of Registration in the event of the Chief Executive's incapacity or of a vacancy         | Director of Connected Chelmsford |

### **PUBLIC HEALTH (CONTROL OF DISEASES) ACT 1984**

|      |   |  |   |
|------|---|--|---|
| 2.41 | Parts II, III, IV and VI and Section 48 as amended by the Health and Social Care Act 2008 | Control of diseases and Preparation of certificate to Justice of Peace for removal of a body to a mortuary or for burial within a prescribed time or immediately | Public Health and Protection Services Manager |
|------|---|--|---|

### **BUILDING ACT 1984**

|      |     |   |                                     |
|------|-----|---|-------------------------------------|
| 2.42 | S78 | Take and authorise emergency action in respect of dangerous buildings | Director of Sustainable Communities |
| 2.43 | S93 | Sign notices and other documents under this Act                       | Director of Sustainable Communities |

### **LOCAL GOVERNMENT AND HOUSING ACT 1989**

|      |    |   |                 |
|------|----|---|-----------------|
| 2.44 | S2 | Receipt of list of politically restricted posts | Chief Executive |
|------|----|---|-----------------|

|      |            |  |                                       |
|------|------------|--|---------------------------------------|
| 2.45 | S3         | Certification as to whether a post is politically restricted | Chief Executive                       |
| 2.46 | S15 and 16 | Receipt of Notice relating to political groups               | Legal and Democratic Services Manager |
| 2.47 | S19        | Receipt of general notice of members' pecuniary interests    | Legal and Democratic Services Manager |

#### **PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990**

|      |                       |   |                                     |
|------|-----------------------|---|-------------------------------------|
| 2.48 | All relevant sections | Receipt, deposit and notification of lists of protected buildings | Director of Sustainable Communities |
|------|-----------------------|---|-------------------------------------|

#### **FOOD SAFETY ACT 1990**

|      |        |   |   |
|------|--------|---|---|
| 2.49 | S49(3) | Sign any document which a food authority are authorised or required by or under this Act to give, make or issue | Public Health and Protection Services Manager |
|------|--------|---|---|

#### **ENVIRONMENTAL PROTECTION ACT 1990**

|      |      |            |                           |
|------|------|------------|---------------------------|
| 2.50 | S149 | Stray dogs | Director of Public Places |
|------|------|------------|---------------------------|

#### **DATA PROTECTION ACT 1998**

|      |     |  |   |
|------|-----|--|---|
| 2.51 | S20 | Duty to notify Information Commissioner of changes to data controllers | Information and Communications Technology Manager |
|------|-----|--|---|

#### **LOCAL GOVERNMENT ACT 2000**

|      |            |  |                                       |
|------|------------|--|---------------------------------------|
| 2.52 | Section 81 | Maintaining the register of members' financial and other interests | Legal and Democratic Services Manager |
|------|------------|--|---------------------------------------|

#### **REGULATION OF INVESTIGATORY POWERS ACT 2000 (Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) Order 2000)**

|      |     |  |   |
|------|-----|--|---|
| 2.53 | S28 | Authorisation to undertake covert surveillance | Legal and Democratic Services Manager and Public Health and |
|------|-----|--|---|

Protection Services  
Manager

2.54 **HOUSING ACT 2004**

All Parts except  
Part 6

Housing conditions and enforcement

Public Health and  
Protection Services  
Manager

**HEALTH ACT 2006**

2.55 Part 1

Enforcement of provisions relating to  
smoke-free premises, places and  
vehicles

Public Health and  
Protection Services  
Manager

**LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION  
ACT 2009**

2.56 Those sections  
relating to petitions

Receive petitions and requests for  
reviews for handling of the  
petitions under the Petitions Scheme,  
verify number and direct to the  
relevant councillor body or officer for a  
response

Legal and  
Democratic Services  
Manager

| <u>Ref.<br/>No.</u> | <u>LEGISLATION<br/>(in date order)</u> | <u>ROLE OR FUNCTION</u> | <u>PROPER OFFICER</u> |
|---------------------|--|-------------------------|-----------------------|
|---------------------|--|-------------------------|-----------------------|

### 3. Secondary Legislation

#### **LOCAL AUTHORITIES CEMETERIES ORDER 1977**

|     |     |                                 |                           |
|-----|-----|---------------------------------|---------------------------|
| 3.1 | All | Officer of the burial authority | Director of Public Places |
|-----|-----|---------------------------------|---------------------------|

#### **LOCAL ELECTIONS (PRINCIPAL AREAS) RULES 1986**

|     |                    |   |                 |
|-----|--------------------|---|-----------------|
| 3.2 | Rule 44            | Receipt from Returning Officer of names of persons elected to Council           | Chief Executive |
| 3.3 | Rules 46 and 47    | Receipt from Returning Officer of election documents                            | Chief Executive |
| 3.4 | Rules 48,49 and 51 | Retention of election documents and making them available for public inspection | Chief Executive |

#### **LOCAL GOVERNMENT (COMMITTEES AND POLITICAL GROUPS) REGULATIONS 1990**

|     |   |   |                                       |
|-----|---|---|---------------------------------------|
| 3.5 | All Regulations referring to the proper officer | Dealing with political balance on committees and giving notice of the establishment of political groups | Legal and Democratic Services Manager |
|-----|---|---|---------------------------------------|

#### **LOCAL AUTHORITY (MEMBERS' ALLOWANCES) REGULATIONS 1991**

|     |               |   |                                       |
|-----|---------------|---|---------------------------------------|
| 3.6 | Regulation 14 | Receive written notice from a member electing to forego entitlement to allowances | Legal and Democratic Services Manager |
|-----|---------------|---|---------------------------------------|

#### **THE LOCAL AUTHORITIES (REFERENDUMS) (PETITIONS AND DIRECTIONS) (ENGLAND) REGULATIONS 2000**

|     |   |  |                 |
|-----|---|--|-----------------|
| 3.7 | All Regulations referring to the proper officer | Verification etc. of Mayoral petitions | Chief Executive |
|-----|---|--|-----------------|

#### **THE LOCAL AUTHORITIES (CONDUCT OF REFERENDUMS) (ENGLAND) REGULATIONS 2001**

|     |               |                              |                 |
|-----|---------------|------------------------------|-----------------|
| 3.8 | Regulation 11 | The role of Counting Officer | Chief Executive |
|-----|---------------|------------------------------|-----------------|



### **LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) REGULATIONS 2001**

|     |            |  |  |
|-----|------------|--|--|
| 3.9 | Schedule 1 | Provision relating to the appointment and dismissal of staff | Chief Executive (or Director of Connected Chelmsford if the action concerns the post of Chief Executive) |
|-----|------------|--|--|

### **REGULATION OF INVESTIGATORY POWERS (COMMUNICATIONS DATA) ORDER 2003**

|      |                        |  |   |
|------|------------------------|--|---|
| 3.10 | Part III of Schedule 2 | Authorisations/notices relating to communications data falling within sections 21(4)(b) and (c) of the RIPA 2000 | Legal and Democratic Services Manager and Public Health and Protection Services Manager |
|------|------------------------|--|---|

### **HEALTH PROTECTION (NOTIFICATION) REGULATIONS 2010**

|      |                 |  |   |
|------|-----------------|--|---|
| 3.11 | Regs 2, 3 and 6 | The proper officer to appoint Consultants in Communicable Disease Control (CCDC) for the receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons | Public Health and Protection Services Manager |
|------|-----------------|--|---|

### **ACCOUNTS AND AUDIT REGULATIONS 2011**

|      |   |   |                         |
|------|---|---|-------------------------|
| 3.12 | References to the responsible financial officer | Maintenance of arrangements for financial management and internal control | Chief Financial Officer |
|------|---|---|-------------------------|

### **LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012**

|      |               |                                  |                                       |
|------|---------------|----------------------------------|---------------------------------------|
| 3.13 | Regulation 12 | Recording of executive decisions | Legal and Democratic Services Manager |
|------|---------------|----------------------------------|---------------------------------------|

|      |                             |  |                                       |
|------|-----------------------------|--|---------------------------------------|
| 3.14 | Regs 5, 6, 7, 13, 14 and 15 | Compilation and availability of background papers, agenda and connected reports in relation to executive decisions | All Directors                         |
| 3.15 | Regs 9, 10 and 11           | Publicity in connection with Key Decision and giving notice etc. in cases of urgency                               | Legal and Democratic Services Manager |
| 3.16 | Regs 16 and 17              | Rights of access to documents for councillors  | Legal and Democratic Services Manager |

## CONSTITUTION PRACTICE NOTE

### RULES OF DEBATE

There are different rules for speaking in Full Council meetings, and speaking in Committee or Cabinet meetings. At Full Council there are also further rules in relation to councillors raising questions with cabinet members which require advance notice and permit supplementary questions to be raised and answered.

In relation to items of business (where there is usually a report within the agenda to be debated and a decision reached) at Full Council meetings councillors may normally only speak once in relation to each agenda item. There are exceptions to this rule with the most common being where a councillor proposes an item of business and is permitted to speak twice, once at the start to open the item and then again to sum up immediately before the vote is taken. All councillors are also able to speak again once in relation to each proposed amendment as well as the substantive item of debate. Any queries raised during the debate are dealt with by the councillor proposing the item of business at the end of the debate. There is no further right of reply to the responses provided before the vote is taken.

Councillors who sit on committees can normally speak freely. Finally, there are also specific rules for Cabinet meetings where there is provision for opposition spokespersons for the largest opposition group and a limitation on the number of questions that can be raised by other members of small opposition groups or non-party councillors at each meeting.

#### **1. Full Council Meetings**

1.1 The following time limits apply to speaking on motions at Council meetings:

1.1.1 The mover of a motion may speak for up to 10 minutes and for 5 minutes in right of reply

1.1.2 Anyone else may speak for up to five minutes

1.1.3 The mover of an amendment may speak for up to five minutes

1.2 Except for the mover of a motion/amendment, each person may speak only once on each motion or amendment, unless it is to make a point of order or personal explanation.

1.3 Any speaker may request an extension to their time limit, which will be decided by the Council without discussion. Exceptions to the number of times someone may speak cannot be granted. However, Councillors can speak freely on points of procedure or personal explanation

1.4 The mover of the original motion may reply at the end of the debate before the vote is put, as well as at the close of debate on any amendment. The mover of an amendment has no right of reply at the end of the debate on the amendment before the vote is taken.

- 1.5 The mover of a motion may alter it with the consent, without discussion, of the meeting.
- 1.6 A motion may be withdrawn with the consent of the meeting, without discussion and the seconder.
- 1.7 There are also Closure Motions that may be moved at the end of any councillor's speech:
  - *To proceed to the next business*: If the motion is seconded, the mover of the original motion may have a right of reply before the procedural motion is put to the vote.
  - *That the question be now put*: If the motion is seconded, the mover of the original motion may have a right of reply before the procedural motion is put to the vote.
  - *To adjourn a debate*: If the motion is seconded, it will be put to the vote immediately. The mover of the original motion will not have the right of reply to their motion.
  - *To adjourn the meeting*: If the motion is seconded, it will be put to the vote immediately. The mover of the original motion will not have the right of reply to their motion.

## **2. Committees and Cabinet meetings**

- 2.1 In Committee meetings there is no limit on the number of times a member of the committee may speak and there is no time limit.
- 2.2 Non Committee members may speak with the consent of the Chair. In addition, they have the right to speak if:
  - 2.2.1 They proposed an item or have asked for a matter to be considered that has been referred to the committee; or
  - 2.2.2 They speak on behalf of constituents at Licensing Hearings or have made formal representations on a licence application; or
  - 2.2.3 They are a ward councillor speaking at the Planning Committee on a related planning application
- 2.3 There are also no limits on Cabinet members speaking at Cabinet meetings. The largest opposition group can appoint opposition spokespersons (and deputies) who may contribute once on each item within their area of responsibility and ask questions of the Cabinet at the Chair's discretion. Smaller opposition groups and/or non-party opposition members may do the same, up to twice each meeting.

## **3. Motions and Amendments**

- 3.1 A proposal or motion has to be formally moved and its purpose explained. Each motion must be seconded. Amendments must be seconded and advance notice is normally required.

3.2 The following motions may be moved during a debate on a motion:

- a) to withdraw a motion;
- b) to amend a motion;
- c) to exclude the public in accordance with the Access to Information Rules; or
- d) not to hear further a councillor or to exclude a councillor from the meeting.

3.3 Amendments can be to omit words and/or to add words. Amendments will be dealt with consecutively. If an amendment passes, it becomes the new motion. No amendment should merely negate the motion. The mover of the original motion can accept an amendment without a vote, provided the seconder agrees. The mover may also amend the motion themselves, with the consent (but without discussion) of the meeting. Lastly, the mover may withdraw the motion with the consent of the meeting and the seconder.

3.4 There are specific rules in relation to amendments that relate to the setting of the annual budget (which usually takes place during late February). These require amendment to be received by the Legal and Democratic Services Manager and S151 officer by noon on the second day before the meeting (eg noon Monday where Council takes place on a Wednesday). These are sent to the Cabinet Member and where valid published on the Council's website no later than noon the day before the meeting.

#### **4. Closing the debate at Full Council meetings**

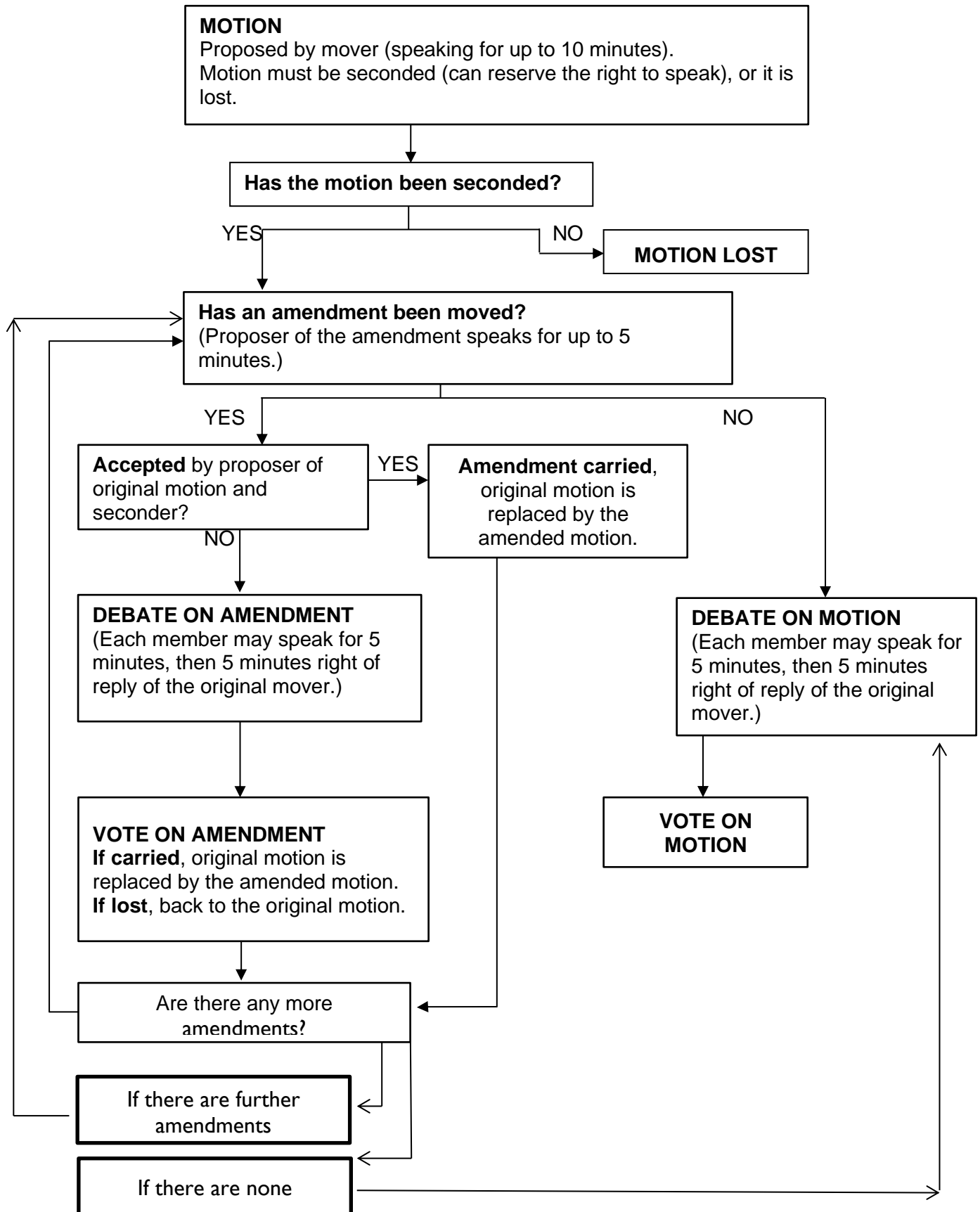
4.1 A motion to close the debate can be moved at the end of any councillor's speech. There are different ways to close:

- Move to refer to another body of the Council.
- Move to proceed to next business.
- Move that the question is put to vote.
- Move to adjourn the debate.
- Move to adjourn the meeting.

4.2 All closing motions need to be seconded before they are accepted, and they allow only for the right to reply of the original mover. There will be no debate on any closing motion. If any closure motion is not agreed upon, there can be no new closure motion for 20 minutes except by the Chair.

Closure motions do not apply to Cabinet and committee meetings.

## 5. Flowchart to explain how motions are dealt with at Council meetings



# CONSTITUTION PRACTICE NOTE

## STANDARDS HEARINGS

### 1. Why this Practice Note has been produced?

1.1 The Council has adopted a Complaints Procedure and a Hearing Procedure but these do not fully explain the layout of the room, the purpose of the hearing or the role of those present. This Practice Note seeks to explain these in more detail so anyone attending a hearing will be clear as to what they will observe and whether they can participate.

1.2 This Practice Note explains:

- The layout of the Room and why it is so formal
- Who can participate at the hearing and their roles
- Why no one else can participate
- How the hearing will be run, in other words what observers and participants can expect to see.

1.3 You should contact the Council if you have any questions about the process of procedure by:

- sending an email to [standards@chelmsford.gov.uk](mailto:standards@chelmsford.gov.uk) ; or

### 2. The Layout of the Room and why it is so formal

2.1 Hearings take place in the Council Chamber as there is ample room for all participants, the public and the press. It also provides the best facilities for everyone to see and hear the proceedings.

2.2 Annex 1 sets out the layout you will normally see at a Standards Hearing. Only those participating in the hearing will sit in the main part of the room namely-

- The Committee members  
Who will decide if a breach has occurred and what if any sanction should be recommended or imposed.
- The Designated Independent Person  
Who is there to ensure that the correct procedures are followed and also to provide procedural advice to the Committee if required.
- The Monitoring Officer or their representative  
Who will advise the Committee on how to interpret the Code of Conduct, the Complaints and Hearing procedures, rules of the Committee and the law as it relates to these issues.
- The Councillor about whom the complaint has been made  
They can also be legally represented if they chose or have someone sit with them to support them through the hearing and anyone there to support them.
- The Investigator  
Who has been appointed to investigate the complaint and to present their report to the Committee as to whether there has been a breach of the Code and as to whether any sanctions should be imposed
- Witnesses  
Who are there to provide first- hand information but only in relation to any facts that are still in dispute.

2.3 Generally hearings will be held in public. The public and other observers will sit in the public gallery and signs will indicate where different groups of observers should sit namely-

- City Councillors
- Parish Councillors
- The general public
- The Press

2.4 The layout of the room is formal so that everyone can see who is present and what they are there to do. It also helps the Committee to understand who they are and therefore have an idea why they have decided to come along. For example City Councillors who are not on the Committee may wish to see how it operates or provide support by their attendance for a fellow Councillor and Parish Councillors may attend for similar reasons.

2.5 The following protocols should be observed by those in the public gallery-

- They are only there to observe and will not be allowed to participate. However, if a member of the public cannot see or hear what is being said, they should raise their hand and the Chair will call on them to speak.
- Any Councillor present will be assumed to be there in their official capacity unless they clearly indicate why they are not and this is accepted by the Chair. This is important as Councillors are often recognised by the public and may be approached at a formal meeting in that capacity to provide advice or assistance for others present. As such it is important that anyone present understands this as if they are there in an official capacity the Code of Conduct for Councillors will be applied to their behaviour throughout the procedure.
- They should not at any time come into the Committee area of the room either during the hearing or during any adjournments. This is to ensure that all participants do not feel they have to justify or explain themselves whilst the Committee is not in the room.

### **3. Who can participate at the hearing and their roles**

3.1 The role of the Committee is to-

- Listen to the information provided by the Councillor about whom the complaint has been made and any witnesses that they have confirmed in advance that they wish to call to address any facts still in dispute
- The Investigator and any witness that they have confirmed in advance that they wish to call to address any facts still not agreed.

3.2 The Chair of the meeting will manage the way in which the meeting is run, with advice from the Monitoring Officer where appropriate. This includes but is not limited to-

- Asking all those involved in the hearing to confirm who they are so that all participants and the public observers are clear as to who they are and why they are there.
- Explaining how the hearing will be run and maintaining order during the process.
- Ensuring that the hearing is carried out in accordance with the Procedure and to provide a single person through whom any questions should be raised. In this way the Committee and other participants know that they need to wait to



be invited to speak by the Chair so that the meeting is properly run and everyone gets to have their say at the right time.

- Confirming to all present why the Committee is about to leave the room if it needs to consider issues in private, such as a request for an adjournment.
- Explaining the decision taken when the Committee returns to the main hearing room.

3.3 No one, other than those with a role in the hearing as set out in paragraph 2.2 above will be allowed to participate. This is because the hearing is to enable the Committee to decide what should be done.

3.4 The Councillor the subject of the Complaint and the Investigator are there to help the Committee reach those decisions on the facts as presented. It would be wholly inappropriate for the Councillor or the Investigator to find themselves being questioned or challenged on other issues or by people that had not been part of the Investigation as it would undermine the Complaints and Hearing Procedures.

# CONSTITUTION PRACTICE NOTE

## TASK AND FINISH GROUP PROTOCOL

### **1. Function of Task and Finish Groups**

- 1.1 The Overview and Scrutiny Committee will establish time-limited Task and Finish Groups to undertake investigations or reviews.
- 1.2 Task and Finish Groups are responsible for undertaking an in-depth review to investigate specific aspects of policy, services or issues of concern to the community. The work undertaken by Task and Finish Groups aims to influence and improve policy and service delivery.

### **2. Guidelines for the Operation of Task and Finish Groups**

- 2.1 Task and Finish Groups need to operate on a relatively informal basis in the sense that they are a forum for information gathering and discussion between Group members and officers, rather than a formal decision making body.
- 2.2 The Task and Finish Group will support the lead officer in producing the Terms of Reference for the review. This will provide background information to explain why the review is taking place, will set review objectives and outline expected outcomes. The Terms of Reference are to be agreed at a meeting of Overview and Scrutiny Committee.
- 2.3 Following the approval of the Terms of Reference for the review, the Task and Finish Group will produce a Scoping Document for the review. This Plan will further detail the scope of the review, set out timescales for site visits, highlight the consultation required and detail the information and research that is required to support the review.
- 2.4 In discussing issues to reach conclusions and make recommendations, it is hoped that the Group will be able to reach an agreement. However, if this is not the case on any particular issue, then all views on that issue should be included within the final report.
- 2.5 There is an expectation that most Task and Finish Groups will complete their work and submit their final report to Overview and Scrutiny Committee within three to six months of the review commencing.

### **3. Membership**

- 3.1 Task and Finish Groups will consist of a minimum of two Councillors and take into account cross party representation.

- 3.2 Members of the Overview and Scrutiny Committee can nominate themselves for a Task and Finish Group based on their interest of the issue, as a representative of a relevant ward, and personal knowledge and expertise. The Chair and Vice Chair of the Overview and Scrutiny Committee are responsible for finalising the membership of a particular Task and Finish Group.
- 3.3 Substitution arrangements will not apply to Task and Finish Groups, unless there are exception circumstances, for the following reasons:
- Councillors are appointed to Task and Finish Groups by the Overview and Scrutiny Committee on the basis of experience, interest and availability.
  - Task and Finish Groups are small, focused and time limited allowing Councillors to gain an in-depth knowledge of that particular subject over a series of meetings.
  - It would be difficult and potentially disruptive for a new Councillor to join the group part way through the process.

#### **4. Member Interests**

- 4.1 Although Task and Finish Groups are not formal committees of the Council, Councillors should declare any interest where required under the Member Code of Conduct in any matter being considered at a meeting of the Group. A Councillor should not join a Task and Finish Group if they have any interest which precludes their participation in the matter.

#### **5. Role of Councillors and Officers in Task and Finish Groups**

##### **5.1 Role of Councillors in Task and Finish Groups**

- 5.1.1 To support the lead officer in the production of the Terms of Reference for the review.
- 5.1.2 To work with officers involved to produce a Scoping Document for the review.
- 5.1.3 To question Cabinet Members, senior officers and other contributors on issues related to the specific review subject.
- 5.1.4 To attend site visits, forums and meetings and to undertake research, as necessary in order to obtain further understanding and information to support the review.
- 5.1.5 To make recommendations for the final report.

##### **5.2 Role of Lead Officer in Task and Finish Groups**

- 5.2.1 To lead on producing the Terms of Reference for the review in liaison with the Task and Finish Group.

5.2.2 To lead on the production of the Scoping Document in liaison with the Task and Finish Group.

5.2.3 To lead on the project management of the review.

5.2.4 To secure sufficient officer resource to contribute to the work of the review.

5.2.5 To ensure that all Group Members are kept informed of the different aspects of the review.

5.2.6 To organise sessions and site visits where Councillors can talk to groups who are affected by the issue being considered.

5.2.7 To liaise with the Democratic Services Officer and ensure that they are kept informed of the progress made with the review.

5.2.8 To produce the final report in liaison with the Task and Finish Group.

5.2.9 To present the final report to the Overview and Scrutiny Committee.

5.2.10 To evaluate the impact of the review at the agreed period, as detailed in the Scoping Document, and ensure that any recommendations or action required has been taken. This evaluation can be carried out within the Directorate and does not require a follow-up report to Overview and Scrutiny Committee, unless otherwise requested.

### 5.3 Role of Democratic Services Officer in Task and Finish Groups

5.3.1 To liaise with the Director responsible for overseeing Overview and Scrutiny Committee to identify potential Task and Finish Group projects and lead officers.

5.3.2 To liaise with the Chair and Vice Chair of Overview and Scrutiny Committee to identify Councillors to be part of the Task and Finish Group.

5.3.3 To liaise with Task and Finish Groups to determine the timeframes for the review.

5.3.4 To advise and support officers in working with Councillors, when contributing to the review.

5.3.5 To arrange, in co-operation with the lead officer, for contributors (internal officers and external organisation representatives) to attend Overview and Scrutiny meetings as necessary.

### 5.4 Role of Policy and Performance Team in Task and Finish Groups

5.4.1 To carry out research, analysis and prepare information which is relevant to the review.

5.4.2 To provide comprehensive advice and guidance to members and officers throughout the review process.

## **6. Reporting**

- 6.1 Each Task and Finish Group will be required to prepare a final report for submission to the Overview and Scrutiny Committee.
- 6.2 The final report should be objective based on the facts gathered throughout the course of the review and will give a full picture of the issues under scrutiny.
- 6.3 The report should reflect the range of views presented to the Task and Finish Group and should contain conclusions and clear recommendations.
- 6.4 The Overview and Scrutiny Committee will then consider and discuss the report and the Committee will agree upon future actions and make recommendations to Cabinet, where appropriate.

## **STRATEGIC SITES PLANNING APPLICATION DELEGATION**

### **PRACTICE NOTE JULY 2024 (Version 2)**

#### Purpose of note

To set out the approach to dealing with planning applications for strategic sites

#### Background

Officers have been following the practice of reporting all the larger strategic growth site planning applications as allocated in the Chelmsford Local Plan and where masterplans have been agreed, to the planning committee (see appendix 1). This is understood to follow an agreement between David Green and members a few years ago. A number of members and applicants have recently questioned this process.

#### Proposed new practice

The new practice will apply to all large strategic growth site outline and full applications with approved masterplans which do not fall within the scope of the criteria listed in paragraph 3.4.7.21 of the constitution. That is cases which do not fall within a – h (see appendix 2) and would need to be considered by the planning committee in any event.

Unless the Director of Sustainable Communities decides not to exercise their power of delegation such applications will be determined under delegated powers where:

- i) Affordable housing provision is in accordance with policy, and
- ii) The application complies with or only contains minor variation to the approved masterplan, and
- iii) The application development if it provides housing (C3) is for no more than 20 units

#### Appendix 1

Large strategic growth site applications with approved masterplans

SGS 1b - Former St Peter's College, Fox Crescent

SGS 2 – West Chelmsford

SGS 3a – East Chelmsford, Manor Farm

SGS 3b 3c and 3d – East Chelmsford North and south of Maldon Road

SGS 6 – Northeast Chelmsford

SGS 7a, 7B, 7c and 7d – Great Leighs

SGS 8 – North of Broomfield

SGS 10 North of South Woodham Ferrers

## Appendix 2

### Constitution relating to Referral to the Planning Committee

- a) proposals where a representation has been received before the end of the 21-day consultation period that is contrary to the recommendation of the appropriate officer and a City Councillor(s) for the ward or wards in which the proposal is intended to take place has requested that the case should be reported to Members for determination;
- b) proposals which would have the effect, either cumulatively or otherwise, of granting permission, consent or other approval for matters previously refused by Members;
- c) proposals to which The Town and Country Planning (Consultation) (England) Direction 2009 applies where it is not proposed to refuse planning permission, such that consultation with the Secretary of State is required under Paragraph 9;
- d) proposals (other than the submission of details required by condition) identified as being submitted by or on behalf of the City Council, or in respect of land in which the City Council has an interest that would be affected by the proposal, and an adverse representation or comment has been received;
- e) proposals, except for applications for certificates of lawfulness, identified as being submitted by or on behalf of City Councillors or employees where an adverse representation or comment has been received, unless the Monitoring Officer has notified the Director of Sustainable Communities Services in writing that they are satisfied that the delegation may be exercised in the case concerned;
- f) proposals to approve, revoke, modify or discontinue use orders where compensation is involved;
- g) proposals to confirm or modify a tree preservation order where an objection has been received and where a City Councillor has requested that the case be reported to Members for determination; and
- h) decisions whether it is expedient to issue an enforcement notice where the Director of Sustainable Communities, after consultation with the Chair and Vice-Chair of the Planning Committee, considers the case should be reported to Members for determination. (If the Vice Chair is of the same political group as the Chair, the spokesperson of the largest minority group will also be consulted.)

# **Chelmsford City Council Constitution – Changelog**

## **Version 4 - Changes after 25<sup>th</sup> July 2023 - Full Council (Item 7.4)**

- **Update to 4.2.8A** – Working Groups
- **Update to 2.15.6** – Affixing of the Council’s Seal
- **Update to 3.2.4** – Chelmsford Community Funding Scheme Terms of Reference
- **New Section at 3.4.7.26** – Delegation for Neighbourhood Planning Statutory Functions
- **Update to 4.9.20** – Changes to fees and charges

## **Version 5 – Changes on 7<sup>th</sup> August 2023 under Monitoring Officer Delegation**

- Update to 3.2.4 – Change due to Cabinet membership changes, to replace Deputy Leader on the Community Funding Panel with the Cabinet Member for Active Chelmsford.
- Update to 7.2 – Change to reflect updated details for Director of Sustainable Communities

## **Version 6 – Changes on 20<sup>th</sup> September under Monitoring Officer Delegation**

- Update to 3.2.4 – Changes to Chelmer Waterside Panel Membership

## **Version 7 – Change on 2<sup>nd</sup> January 2024 under Monitoring Officer Delegation**

- Update to Independent Persons Practice Note

## **Version 8 – Changes on 10<sup>th</sup> January – Full Council (6 December) Items 7.1 & 8.1**

- **Update to Part 2** – Monitoring Officer Delegation
- **Update to Parts 4.1 and 4.2** – Voting methods
- **Update to Part 6** – Addition of payments to Independent Persons on Audit & Risk Cttee

## **Version 9 – Changes on 15<sup>th</sup> January under Monitoring Officer Delegation**

- Update to Motions and Amendments Practice Note
- Update to Rules of Debate Practice Note

## **Version 10 – Minor changes on 17<sup>th</sup> January approved by the LDSM in consultation with the Governance Cttee Chair in accordance with Article 16**

- Update to part 2 – Change reference to parish and town councils to parish tier councils
- Update to part 2 – Refer to constitution being available on website not intranet
- Update to Part 3.2.3 – Change reference to parish and town councils to parish tier councils, add reference to 2-4 Independent Persons and add note to quorum about



the requirements for an Independent person to be present at hearings and a parish tier representative when dealing with parish tier matters.

**Version 11 – Minor changes on 14<sup>th</sup> February approved by the LDSM in consultation with the Governance Cttee Chair in accordance with Article 16**

**Version 12 – Minor changes on 1st March approved by the LDSM in consultation with the Governance Cttee Chair in accordance with Article 16**

**Version 13 – Changes after 17<sup>th</sup> July 2024 Full Council – Item 7.1 and after new Cabinet appointments made on 25<sup>th</sup> July 2024**

- **Updates to Part 3**
  - o Removal of Civic Centre Panel from Constitution
  - o Clarified arrangements for appointing a Chair to the Community Funding Panel
  - o Addition of the Constitutional Working Group
  - o Change to Part 3.4.7.21 (a) to clarify the timeframe within which ward members can call an item to Planning Committee and how to manage an extension of time for representations (eg by Parish Tier Council)
  - o Changes to Leaders Scheme of Delegations at part 3.3.2 (i) (*Changes made by Monitoring Officer under delegation in relation to new Cabinet appointments by the Leader of the Council*)
- **Update to Part 4.2-** To add a new rule at 4.2.25.5 to retain and update speaker time limits.
- **Update to Part 5.2 -** To adopt the Model Planning Code as produced by Lawyers in Local Government along with two minor amendments to retain the City Council's current approach to unopposed planning applications from officers/members and a decision contrary to officer recommendation.

**Version 14 – Changes on 8<sup>th</sup> October under Monitoring Officer Delegation**

- **Update to part 6 –** To update Basic and Special Responsibility Allowances with annual changes.