

# Essex County Council

## The Constitution

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Essex County Council

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# Part I

## Summary and Explanation

### Part 1

#### Summary and Explanation

##### i. The Council's Constitution

This is the Constitution of Essex County Council.

The Council has adopted the Constitution which sets out how the Council works, how decisions are made and the procedures that are followed to ensure these are efficient, transparent and the Council is accountable to local people. Some of these procedures are required by law, while others are a matter of choice for the Council.

The Constitution provides a framework which:

- (a) enables the Council to provide clear leadership to the community in partnership with members of the public, business and other organisations;
- (b) supports the active involvement of members of the public in the process of local authority decision-making;
- (c) helps Councillors represent their constituents more effectively;
- (d) enables decisions to be taken efficiently and effectively in line with the Council's Budget and Policy Framework;
- (e) creates a powerful and effective means of holding decision-makers to public account;
- (f) ensures that no one will review or scrutinise a decision in which they were directly involved;
- (g) ensures that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (h) provides a means of improving the delivery of the services to the community.

##### ii. What is in the Constitution?

The Constitution is divided into five parts which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols contained within parts 4 and 5 of the Constitution.

Article 1 of the Constitution commits the Council to acting within the law to provide clear leadership to the community and to provide services to that community in an efficient, effective and accountable manner.

The remaining Articles explain the rights of citizens and how the key parts of the Council operate setting out their roles and responsibilities.

These are:

- Citizens and the Council (Article 2)
- Members of the Council (Article 3)
- Officers (Article 4)
- Decision making (Article 5)
- The Full Council (Article 6)
- The Cabinet (Article 7)
- Council Committees (Article 8)
- Overview and Scrutiny Committees (Article 9)
- Health Overview, Policy and Scrutiny Committee (Article 10)
- Joint arrangements (Article 11)
- Finance, Contracts and Legal Matters (Article 12)

### **iii. How the Council Operates**

The Council is composed of 75 Councillors (also known as Members) elected every four years. Members are democratically accountable to the residents of their electoral divisions. The overriding duty of Members is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Members have to follow a local code of conduct to ensure high standards in the way they undertake their duties. The Audit, Governance and Standards Committee trains and advises them on the code of conduct.

All Members meet together as the full Council and these meetings are open to the public.

The Council appoints the Leader of the Council and the Leader appoints up to nine other Councillors who together make up the Cabinet (the Executive). These each have specific areas of responsibility (portfolios) determined from time to time by the Leader of the Council.

The Council elects the Chairman and Vice-Chairman annually at the annual meeting of the Council.

The Council decides the overall policies and sets the budget for each year by setting the Budget and the Policy Framework within which all executive decisions are made.

**iv. How Decisions are made**

Full Council is responsible for all non-executive decisions.

The Cabinet is responsible for all executive decisions.

**v. Overview and Scrutiny**

The Council appoints four Overview and Scrutiny Committees that support the work of the Cabinet and the Council as a whole.

These committees are independent of the Cabinet and no Member on any Overview and Scrutiny Committee may exercise Executive functions.

Overview and Scrutiny Committees have a dual role that covers policy development of the Council and the Cabinet as well as the review of the Council's and Cabinet's decisions.

**vi. The Council's Officers**

The Council's employees (called "Officers") give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. The Officer Code of Conduct, set out within the Code of Corporate Governance, governs the practice of officers and requires officers to have regard to the Seven Nolan principles of public life. The protocol on Member/Officer relations is contained within Part 5 of the Constitution. This protocol governs the relationship between officers and Members of the Council.

**vii. Citizens' Rights**

Citizens have a number of rights and these are set out in detail in Article 2. Some of these are legal rights while others depend on the Council's own procedures.

**viii. Other Public Bodies**

The Council is also required to appoint Members to the Essex Police, Fire and Crime Panel.

## **Part 2**

### **Articles of the Constitution**

## **Article 1**

### **The Constitution**

#### **1.1 Powers of the Council**

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

#### **1.2 The Constitution**

This Constitution is the Constitution of the Essex County Council.

#### **1.3 Purpose of the Constitution**

**The Constitution provides a framework which:**

- (i) enables the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (ii) supports the active involvement of citizens in the process of local authority decision making;
- (iii) helps Members to represent their constituents more effectively;
- (iv) enables decisions to be taken efficiently and effectively in line with the Council's Budget and Policy Framework;
- (v) creates a powerful and effective means of holding decision makers to public account;
- (vi) ensures that no-one will review or scrutinise a decision in which they were directly involved;
- (vii) ensures that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (viii) provides a means of improving the delivery of services to the community.

#### **1.4 Suspension of the Constitution**

The Articles of this Constitution may not be suspended.

The Standing Orders of the Council may be suspended by a motion to a meeting of the Council and the law.

A motion to suspend the rules of debate will not be moved without notice unless at least one half of the whole number of Members is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.3 above.

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

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect, and to ensure that appropriate amendments are recommended as and when necessary for the purpose of updating or improving the Constitution.

The Monitoring Officer shall review the Constitution at least, but not limited to, annually with a view to recommending any such amendments to the annual meeting of the Council.

Any minor amendments and routine updating of the Constitution shall be the responsibility of the Monitoring Officer.

### **1.6 Protocol for monitoring and reviewing the Constitution by the Monitoring Officer**

A key role for the Monitoring Officer is to make recommendations for ways in which the Constitution could be amended in order to achieve the purposes set out in Article 1.3 above. In undertaking this task the Monitoring Officer may:

- (i) observe meetings of different parts of the Member and officer structure;
- (ii) undertake an audit trail of a sample of decisions;
- (iii) record and analyse issues raised with him by Members, officers, the public and other relevant stakeholders; and
- (iv) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

In formulating recommendations for amendments to the Constitution the Monitoring Officer shall:

- (i) collect comments from officers and Members regarding those areas where recommendations for amendments are to be proposed and;
- (ii) review any comments received, and prepare a report setting out details of those comments and provide advice on any proposed amendments and guidance on the same.

### **1.7 Approval of Changes to the Constitution**

Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer.

However, if either:

- (i) the Head of Paid Service makes changes to the organisation of the Council's officers or the way in which the delivery of the functions is organised at officer level which impact on the specific powers of the Chief Executive, Chief Officers and other officers contained in part 3 of the Constitution (Responsibility for Functions); or
- (ii) the Chief Finance Officer (Section 151 Officer) determines that changes are necessary to the Financial Regulations contained within the Code of Corporate Governance for the proper administration of the Council's financial affairs;

and the said officers determine that in the interest of the Council the changes should be implemented in advance of the next available meeting of the full Council, then the officers may make such minimum amendments to those parts of the Constitution referred to above as necessary, provided always, that agreement is obtained from the Chairman of the Council or in his absence the Vice-Chairman of the Council, and notification of such changes shall be submitted to the next available meeting of the Council for formal approval.

The changes shall be submitted to the next available meeting of the Council for formal approval.

## **1.8 Changes to Part 3 of the Constitution**

Where, in accordance with Article 7.9, the Leader of the Council makes changes to Part 3 of the Constitution by changing the membership of the Cabinet or the Cabinet portfolios or by changing the deputy cabinet members or by changing any committee of the Cabinet, officers or joint arrangements responsible for the exercise of particular Executive functions, those changes shall be automatically implemented by the Monitoring Officer without requiring any further approval by Council.

## **1.9 Interpretation**

The ruling of the Chairman of the Council as to the Construction or application of this Constitution or any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution set out in Article 1.3 above.

Within this Constitution, except where the context otherwise requires:

- the masculine includes the feminine and vice versa, and
- any reference to 'Essex' shall be the Administrative County of Essex.

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks closest to the purposes stated in Article 1.3 above.

### **1.10 Publication**

The Monitoring Officer shall upon a Member's election, provide a copy of this Constitution to that Member.

- (ii) The Monitoring Officer will ensure that copies of this Constitution are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee. In addition it shall be available to download free of charge from the Council's website: [www.essex.gov.uk](http://www.essex.gov.uk).
- (iii) The Monitoring Officer will ensure that the Constitution is made widely available within the area and is updated as necessary in accordance with this Article.

### **1.11 Executive Arrangements**

The following parts of this Constitution shall constitute the Executive Arrangements:

- (i) Article 5: Decision Making;
- (ii) Article 7: The Cabinet;
- (iii) Article 9: Overview and Scrutiny Committees;
- (iv) Article 10: Health Overview, Policy and Scrutiny Committee;
- (v) Article 11: Joint Arrangements;
- (vi) Chapter 13 Responsibility for Functions;
- (vii) Chapter 17: Cabinet Procedure Rules
- (viii) Chapter 22 and 23: The Overview and Scrutiny Committee Procedure Rules and the Health Overview, Policy and Scrutiny Committee Procedure Rules..



## Article 2

### Citizens and the Council

#### 2.1 Citizens' Rights

Citizens have the following rights:

##### 2.1.1 Voting and petitions

Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

##### 2.1.2 Access to Information

- (i) To have access to information as set out in the Access to Information Procedure Rules, contained within Part 4 of this Constitution;
- (ii) to attend meetings of the Council and Council Committees except where such attendance is excluded as set out in the Access to Information Procedure Rules, contained within Part 4 of this Constitution;
- (iii) to attend meetings of the Cabinet when Key Decisions are being considered except where such attendance is excluded as set out in the Access to Information Procedure Rules, contained within Part 4 of this Constitution;
- (iv) to find out from the Forward Plan what Key Decisions will be taken by the Cabinet and when these are due to take place;
- (v) to have access to reports and background papers, and any records of decisions made by the Council and the Cabinet except where such access is excluded as set out in the Access to Information Procedure Rules, contained within Part 4 of this Constitution;
- (vi) to inspect the Council's accounts and make their views known to the external auditor;
- (vii) under the Freedom of Information Act 2000, to request and receive information in the possession of the Council, subject to defined exceptions contained within the Act;
- (viii) to contact their local Member about any matters of concern to them;
- (ix) to obtain a copy of this Constitution; and
- (x) to contribute to investigations conducted by the Overview and Scrutiny Committees.

### **2.1.3 Ability to make complaints**

To complain to:

- (i) the Council itself under its complaints scheme;
- (ii) the Local Government Ombudsman after using the Council's own complaints scheme; and
- (iii) the Monitoring Officer of Essex County Council about a breach of the Members' Code of Conduct;

provided they are not violent, abusive or threatening to Members or Officers.

## **Article 3**

### **Members of the Council**

#### **3.1 Composition and Eligibility**

##### **3.1.1 Composition**

The Council comprises 75 Members, otherwise called Councillors. Members will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.

##### **3.1.2 Eligibility**

Only registered voters for the area of Essex County Council or those living or working, or owning land or premises in that area will be eligible to hold office as a Member.

#### **3.2 Election and Terms of Office of Members**

The regular election of Members will be held on the first Thursday in May every four years beginning next in 2017. The terms of office of Members will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

#### **3.3 The Nolan Principles: The seven principles of public life**

These principles apply to all aspects of public life; the Council has adopted these principles which will be applied by all Members.

##### **1. Selflessness**

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

##### **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.

### **3.4 Roles and Responsibilities of the Chairman of the Council**

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

The duties and responsibilities of the Chairman of the Council, as set out below, are in addition to his role as a Member as set out in paragraph 3.8.

#### **3.4.1 Purpose**

- (i) To provide effective civic and ceremonial leadership to the Council;
- (ii) To chair County Council meetings and ensure its business is carried out efficiently and in line with the Constitution; and
- (ii) To act as an ambassador for the County Council and Essex itself.

#### **3.4.2 Duties and Responsibilities**

- (i) To be politically impartial and uphold the democratic values of the Council, but this expectation does not prevent the Chairman from voting on any matter;
- (ii) to represent the Council at civic and ceremonial functions, acting on behalf of and supported by the whole Council in a non-partisan manner;
- (iii) to act as the principal spokesman for the Council on civic and ceremonial occasions;
- (iv) to act as an ambassador for the County Council and Essex itself;

- (v) to uphold and promote the purposes of the Constitution and interpret the Constitution when necessary, working with officers to keep the Constitution under review to ensure it is relevant to the Council's needs;
- (vi) to preside over meetings of the Council, acting impartially and ensuring that business is carried out efficiently and effectively whilst protecting the rights of individual County Members and the interests of the community;
- (vii) to promote public involvement in the Council's activities and ensure that at Council meetings, matters of concern to local communities can be debated by their County Members;
- (viii) to promote and support good governance of the Council and its affairs;
- (ix) to provide community leadership and promote active citizenship, fostering community identity and pride and promoting public involvement in the Council's activities; and
- (x) to offer support and advice to Members of the Council.

### **3.5 Roles and Responsibilities of the Vice-Chairman of the Council**

The duties and responsibilities of the Vice-Chairman of the Council, as set out below, are in addition to his role as a Member as set out in paragraph 3.8.

#### **3.5.1 Purpose**

- (i) To fulfil the duties of the Chairman in his absence; and
- (ii) To assist the Chairman in specific duties as required.

### **3.6 Roles and Responsibilities of the Leader of the Council**

The duties and responsibilities of the Leader of the Council, as set out below, are in addition to his role as a Member as set out in paragraph 3.8 and his role as a Cabinet Member contained in Article 7.

#### **3.6.1 Purpose**

- (i) To provide effective political leadership and strategic direction for the Council;
- (ii) to ensure effective corporate governance;
- (iii) to provide effective stewardship of the Council and its resources;
- (iv) to be an advocate of the Council;
- (v) to chair the Cabinet and ensure that it achieves its terms of reference;

- (vi) to ensure that the Council delivers high quality, value for money services;
- (vii) to ensure that the Council delivers on its policy objectives; and
- (viii) to promote the benefits of partnership working.

### **3.6.2 Duties and Responsibilities**

- (i) To lead his political group and to provide political leadership to the Council, including proposing the Policy Framework within which the Council will operate and to take such Executive action as may be delegated by the Council;
- (ii) to ensure effective Corporate Governance including working with opposition groups to seek to achieve where possible cross-party co-operation;
- (iii) to lead the Cabinet and be responsible for the Council's corporate and resource strategy;
- (iv) to appoint or dismiss Cabinet Members and to determine the allocation of portfolios for subsequent notification to the Council;
- (v) to ensure that the Cabinet achieves its terms of reference both collectively and as individual portfolio holders;
- (vi) to chair Cabinet meetings and to prepare the Forward Plan;
- (vii) to exercise Executive functions not allocated to either the Cabinet or to Cabinet Members, or to delegate such functions to another Cabinet Member or Committee;
- (viii) to appoint or dismiss Cabinet Committees;
- (ix) to ensure the effective integration of executive roles, responsibilities and functions within the Cabinet membership;
- (x) to be the key contact for outside organisations (including Central Government, Local Authority Associations and Council partners);
- (xi) to be the key interface between the Members and the Chief Executive, and the Corporate Leadership Team for the strategic management of the Council;
- (xii) to be the representative voice of the Council, for example, in its dealings with Central Government, other Local Authorities and their Associations and positively to promote the Council as a whole in the media;
- (xiii) to act as the political spokesperson for the Council;

- (xiv) to promote the long term financial, business and economic stability of the Council;
- (xv) to encourage the highest standards of probity, ethical and corporate governance for the wellbeing of the County;
- (xvi) to communicate the Administration's policies and priorities to the Corporate Leadership Team and to receive their advice; and
- (xvii) to exercise the Executive functions of any Cabinet Member in their absence.

### **3.7 Roles and Responsibilities of the Deputy Leader of the Council**

The duties and responsibilities of the Deputy Leader of the Council, as set out below, are in addition to his role as a Member as set out in paragraph 3.8 and his role as a Cabinet Member contained in Article 7.

#### **3.7.1 Purpose**

- (i) To assist and work with the Leader of the Council to provide effective political leadership and strategic direction for the Council;
- (ii) to assist the Leader of the Council with his other responsibilities such as ensuring effective Corporate Governance and stewardship of the Council and to ensure the Council delivers high quality, value for money services; and
- (iii) where appropriate and permissible under the Council's Constitution, to act in the absence of the Leader of the Council.

#### **3.7.2 Duties and Responsibilities**

- (i) To assist and work with the Leader of the Council in delivering his responsibilities to the Council within his role profile as set out above;
- (ii) to deputise for the Leader of the Council in his absence from Council meetings and to deputise in the Leader's absence at Cabinet meetings;
- (iii) in the Leader of the Council's absence, to carry out the requirements of his role profile as set out above so far as legally possible and permissible; and
- (iv) to carry out such other duties and undertake portfolio responsibility as delegated by the Leader of the Council.

### **3.8 Roles and Responsibilities of all Members**

#### **3.8.1 Purpose**

- (i) To participate fully in the good governance of the County;
- (ii) to contribute actively to the formation and/or scrutiny of the Council's policies, budgets, strategies and service delivery;
- (iii) to represent effectively the interests of the Division for which the Member was elected and deal promptly with constituents' enquiries and representations;
- (iv) to promote County Council engagement with all citizens and groups and ensure that there are opportunities for all views to be heard;



- (v) to champion the continuous improvement of the quality of life of the community in terms of equity, economy and environment;
- (vi) to ensure that the Council's resources are used to achieve the maximum benefit for the people of Essex;
- (vii) to represent the Council effectively, when appointed to an outside body, such as a charitable trust or association, etc.;
- (viii) to act at all times with probity and propriety in the best interest of the Council and in accordance with the Council's Code of Conduct and;
- (ix) to champion the cause for his Division as far as the Equality Framework for Local Government is concerned.

### **3.8.2 Duties and Responsibilities**

Members of the Council shall be responsible for the following duties and responsibilities.

- (i) To fulfil the statutory and locally determined requirements of an elected member, including compliance with all relevant codes of conduct, and participation in those decisions and activities reserved to the full Council.
- (ii) To participate effectively as a member of any Committee or Panel to which the Member is appointed, including related responsibilities for the services falling within the Committee's (or Panel's) terms of reference, and its liaison with other public bodies to promote better understanding and partnership working.
- (iii) To participate in the activities of an outside body to which the Member is appointed, providing two-way communication between the organisations and representing the policies and practices of the Council. Also, for this purpose, to develop and maintain a working knowledge of the Council's policies and practices in relation to that body and of the community needs and aspirations in respect of that body's role and functions.
- (iv) To participate in the scrutiny or performance review of the services of the Council including, where the Council so decides, the scrutiny of policies and budget, and their effectiveness in achieving the strategic objectives of the Council.
- (v) To participate, as appointed, in consultative processes with the community and with other organisations.
- (vi) To provide a link between the Council and the community, through the various forums available.

- (vii) To develop and maintain a working knowledge of the Council's services, management arrangements, functions/duties and constraints, and to develop good working relationships with relevant officers of the authority.
- (viii) To develop and maintain a working knowledge of the other organisations and services which serve the County.
- (ix) To contribute constructively to open government and democratic renewal through active encouragement to the community to participate generally in the democratic process.
- (x) To conduct the business of the Council within the Council and not through the written or broadcast media.
- (xi) To maintain confidentiality in all relevant Council business.
- (xii) To find a suitable substitute and to brief them on the meeting due to be attended, on occasions when personal attendance is not possible and where substitutes are permissible.
- (xiii) To identify individual learning and development needs and participate fully in training opportunities provided.
- (xiv) To fulfil the responsibilities as 'corporate parent' of Looked After Children, accepting responsibility for children in the Council's care, making their needs a priority and seeking for them the same outcome any good parent would want for their own children.
- (xv) Maintain the highest standards of conduct and ethics in accordance with the Nolan Seven Principles of Public Life; and
- (xvi) attend at least one meeting of the Authority every six months.

### **3.9 Rights and duties of Members**

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

Members will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Member or Officer entitled to know it.

For these purposes, "confidential" and "exempt" information are defined in the Access to Information Procedure Rules contained within Part 4 of this Constitution.

### **3.10 Conduct of Members**

Members will at all times observe the Code of Corporate Governance and, in particular, the Members Code of Conduct and the Protocol on Member/ Officer Relations contained within Part 5 of this Constitution.

### **3.11 Allowances**

Members will be entitled to receive allowances in accordance with the Members Allowances Scheme contained within Part 5 of this Constitution.

## **Article 4**

### **Officers**

#### **4.1 General**

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

The recruitment, selection and dismissal of employees will comply with the Officer Employment and Disciplinary Procedure Rules contained within Part 4 of this Constitution.

Officers will comply with the Officers’ Code of Conduct contained in the Code of Corporate Governance and the Protocol on Officer/Member Relations contained within Part 5 of this Constitution.

The functions set out within this Article are in addition to those delegations to Chief Officers set out within Part 3 of this Constitution.

#### **4.2 The Nolan Principles: The seven principles of public life**

All officers shall have regard to the seven principles of public life as set out in Article 3.3.

#### **4.3 Chief Officers**

All Chief Officers:

- (i) contribute to the corporate management of the County Council;
- (ii) represent and promote the County Council as a Local Authority securing high quality services for the people of Essex that demonstrates best value; and
- (iii) develop partnership working.

At any time when there is no Chief Executive in post, any reference in this Constitution to the Chief Executive shall be construed as a reference to the Head of Paid Service.

The following posts are designated Chief Officers.

##### **4.3.1 Chief Executive**

##### **4.3.2 Executive Director, Children and Families**

##### **4.3.3 Executive Director, Climate, Environment and Customer Services**

##### **4.3.4 Executive Director, People, Policy, Economy, and Public Health**

#### 4.3.5 Executive Director, Adult Social Care

#### 4.4 Statutory Officers

Full Council has designated the following posts as shown:

| Post  | Designation  |
|---|--|
| Chief Executive                                     | Head of the Paid Service under Section 4 of the Local Government and Housing Act 1989 and a proper officer for the purposes of section 83 of the Local Government Act 1972 (declaration of acceptance of office) |
| Director, Finance (Interim s151 officer)            | Chief Finance Officer appointed under section 151 of the Local Government Act 1972   |
| Executive Director, Children and Families           | Director of Children's Services appointed under Section 18 of the Children Act 2004  |
| Executive Director, Adult Social Care               | Director of Adult Social Services appointed under section 6 of the Local Authorities Social Services Act 1970  |
| Director, Legal and Assurance                       | Monitoring Officer under Section 5 of the Local Government and Housing Act 1989 and a proper officer for the purposes of section 83 of the Local Government Act 1972 (declaration of acceptance of office)       |
| Director, Well-being, Public Health and Communities | Director of Public Health under section 73A of the National Health Service Act 2006  |
| Head of Democracy and Transparency                  | Scrutiny Officer under Section 9FB of the Local Government Act 2000 and a proper officer for the purposes of section 83 of the Local Government Act 1972 (declaration of acceptance of office)                   |

The Post titles as shown in the first column of the above table may be varied by the Chief Executive.

#### 4.5 Structure

The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure. This is contained within the Code of Corporate Governance.

#### 4.6 Functions of the Head of Paid Service

#### **4.6.1 Discharge of functions by the Council**

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

#### **4.6.2 Restrictions on Posts**

The Head of Paid Service may not be the Monitoring Officer or the Scrutiny Officer but may hold the post of Section 151 Officer if he is a qualified accountant.

#### **4.6.3 Freedom of Information**

In the absence of the Monitoring Officer, the Head of Paid Service also has responsibilities under the Freedom of Information Act 2000 as set out in paragraph 4.7.6 below.

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

#### **4.7.1 Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, officers and the public. Article 1 of this Constitution sets out the protocol for monitoring and reviewing the Constitution.

#### **4.7.2 Ensuring lawfulness and fairness of decision making**

After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an Executive function, if he considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

#### **4.7.3 Supporting the Audit, Governance and Standards Committee**

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

#### **4.7.4 Conducting investigations**

The Monitoring Officer will conduct investigations into matters on behalf of the Audit, Governance and Standards Committee.

#### **4.7.5 Proper Officer for access to information**

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

#### **4.7.6 Qualified person for Freedom of Information**

The Monitoring Officer will be the primary qualified person with regard to disclosure of exempt information under Section 36 of the Freedom of Information Act 2000. In the absence of the Monitoring Officer, responsibility for carrying out the function will fall to the Head of Paid Service.

#### **4.7.7 Advising whether Cabinet decisions are within the Budget and the Policy Framework**

The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the Budget and the Policy Framework.

#### **4.7.8 Providing advice**

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and the Policy Framework issues to all Members.

#### **4.7.9 Restrictions on posts**

The Monitoring Officer cannot be the Section 151 Officer, the Head of Paid Service or the Scrutiny Officer.

### **4.8 Functions of the Chief Finance Officer/Section 151 Officer**

#### **4.8.1 Ensuring lawfulness and financial prudence of decision making**

After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the full Council or to the Cabinet in relation to an executive function and the Council's external auditor if he considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

#### **4.8.2 Administration of financial affairs**

The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council, and ensure maintenance of an efficient and effective internal audit function.

#### **4.8.3 Contributing to corporate management**

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

#### **4.8.4 Providing advice**

The Section 151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and the Budget and the Policy Framework to all Members and will support and advise Members and officers in their respective roles.

#### **4.8.5 Give financial information**

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

#### **4.8.6 Restrictions on Posts**

The Section 151 Officer shall not be the Scrutiny Officer or the Monitoring Officer.

#### **4.9 Duty to provide sufficient resources to the Head of Paid Service, the Section 151 Officer and the Monitoring Officer**

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

#### **4.10 Functions of the Scrutiny Officer**

##### **4.10.1 Overview and Scrutiny Committees**

The Scrutiny Officer will promote the role of the Council's Overview and Scrutiny Committees, support the Members of those Committees, and provide support and guidance to the Members of the Council, Members of the Cabinet and Officers of the Council.

##### **4.10.2 Restrictions on Posts**

The Scrutiny Officer may not be the Head of Paid Service, the Monitoring Officer or the Section 151 Officer.



## **Article 5**

### **Decision Making**

#### **5.1 Responsibility for Decision Making**

The Leader is responsible for deciding how executive functions are exercised and has authority to make any decision on executive functions subject to this constitution, the law and the budget and policy framework.

The Council is responsible for deciding how non-executive functions are exercised and has authority to make any decision on non-executive functions, subject to the constitution and the law.

The Constitution sets out

- schemes of delegation to officers and to individual cabinet members
- terms of reference for committees and joint committees
- individual powers of members and officers when operating the constitution.

In addition to the constitution

- (a) financial regulations set out some controls on decision making.
- (b) the monitoring officer maintains a list of functions that Executive Directors have authorised other officers to make.
- (c) Specific decisions by the Cabinet, but individual members or by committees may include authorise others to make specific further decisions in order to progress a particular scheme or project.

#### **5.2 Principles of Decision Making**

In order that decision making is efficient, transparent and accountable, all decisions of the Council (whether taken by full Council, the Cabinet, Committees, Members or Officers) will be based on the following principles:

- (i) proportionality (i.e. the action must be proportionate to the desired outcome);
- (ii) due consultation and the taking of professional advice from officers;
- (iii) respect for human rights;
- (iv) a presumption in favour of openness;
- (v) clarity of aims and desired outcomes; and
- (vi) explanation of the options considered and the giving of reasons for the choice made.

#### **5.3 Types of Decision**

##### **5.3.1 Decisions reserved to the full Council**

Decisions relating to the functions listed in Article 6.3 will be made by the full Council and are not delegated.

### **5.3.2 Key Decisions**

A 'Key Decision', as set out in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, is a decision of the Executive which is likely either:

- (i) to result in the Council incurring expenditure or making savings which are in excess of £2m; or
- (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions.

A Key Decision will also include those decisions which will have a material effect on the Council's services, including but not limited to:

- (i) an existing service or access to an existing service ceasing altogether;
- (ii) a decision that involves any new policy or strategy or which forms part of the development of or a change to the Policy Framework or the Budget; and
- (iii) consideration of any matter which will result in a recommendation to full Council.

For the avoidance of doubt the following shall not be a Key Decision:

- (i) Routine money market transactions;
- (ii) When a key decision has been taken to commence a procurement process, subsequent decisions in relation to that procurement process, including the award of a contract are not then Key Decisions;
- (iii) The purchase of property for the purpose of investment; and
- (iv) A decision to place an order for gas, electricity - or for such other goods and services as the Leader or the Cabinet may from time to time determine - under a contract where the scope of the Contract has been determined by the Cabinet or a Cabinet Member.

When the proposed expenditure arises from a proposed contract or tender, the expenditure likely to be incurred is the estimated gross expenditure to be paid by the Council over the whole life of the contract assuming that any options to extend are not exercised.

A decision maker may only make a Key Decision in accordance with the requirements of the Cabinet Procedure Rules and the Access to Information Procedure Rules set out in paragraph 19.13, contained within Part 4 of this Constitution.

#### **5.4 Decision making by the full Council**

Subject to Article 5.8, the Council meeting will follow the Standing Orders of the Council contained within Part 4 of this Constitution when considering any matter.

#### **5.5 Decision making by the Cabinet**

Subject to Article 5.8, the Cabinet will follow the Cabinet Procedure Rules contained within Part 4 of this Constitution when considering any matter.

#### **5.6 Decision making by Overview and Scrutiny Committees**

Overview and Scrutiny Committees will follow the Overview and Scrutiny Committee Procedure Rules contained within Part 4 of this Constitution when considering any matter.

#### **5.7 Decision making by other Committees and Sub-Committees established by the Council**

Subject to Article 5.8, other Council Committees and Sub-Committees will follow those parts of the Standing Orders of the Council set out in paragraph 16.16 contained within Part 4 of this Constitution as apply to them.

#### **5.8 Decision making in a quasi judicial capacity**

The Council, a Member or an Officer discharging a quasi-judicial function or determining the civil rights and obligations will follow a 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.

Reasons for decisions shall be recorded in such cases.

## Article 6

### The Full Council

#### 6.1 Functions of the Full Council

The Full Council's functions are set out in the law. Only the Council will exercise the following functions:

- (i) making changes to the constitution, other than to those parts of the constitution which others may make in accordance with the law or in accordance with the terms of this constitution;
- (ii) determine the policy framework, adopt the policies comprised within the policy framework and the Budget and, if it so wishes, set the timetable for producing any part of the framework ;
- (iii) making a decision in the discharge of an executive function which is covered by the Policy Framework where the decision maker is minded to make a decision contrary to the Policy Framework
- (iv) Making a decision in the discharge of an executive function which is contrary to or not wholly in accordance with the Budget in circumstances where the decision maker is not authorised by the constitution or financial regulations to make it.
- (v) election of the Chairman and appointment of the Vice-Chairman;
- (vi) electing the Leader;
- (vii) agreeing and/or amending the terms of reference for committees, deciding on their composition;
- (viii) appointing a representative to the Essex Police, Fire and Crime Panel;
- (ix) appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;
- (x) adopting an allowances scheme under Article 3.11;
- (xi) confirming the appointment of the Head of Paid Service, Monitoring Officer, Section 151 Officer and the Scrutiny Officer;
- (xii) dismissal of the Head of Paid Service, the Section 151 Officer or the Monitoring Officer;
- (xiii) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;

- (xiiiv) all Local Choice Functions contained within Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;
- (xv) designating all Statutory Chief Officers; and
- (xvi) all other matters which, by law, must be reserved to Council;

## **6.2 The Policy Framework**

The Policy Framework comprises:

- (i) Any document forming part of the Development Plan
- (ii) The Council's Principal Strategy and Vision
- (iii) Local Transport Plan
- (iv) Youth Justice Plan.

The Policy Framework is developed in line with the Budget and the Policy Framework Procedure Rules contained within Part 4 of this Constitution.

## **6.3 The Budget**

The Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the Council's council tax precept and decisions relating to the control of the Council's borrowing requirements.

The full Council is responsible for the adoption of the Budget.

The Budget is developed in line with the Budget and the Policy Framework Procedure Rules contained within Part 4 of this Constitution.

## **6.4 Council Meetings**

There are three types of Council meeting:

- (i) the annual meeting;
- (ii) ordinary meetings; and
- (iii) extraordinary meetings

Meetings are to be conducted in accordance with the Standing Orders of the Council contained within Part 4 of this Constitution.

## **Article 7**

### **The Cabinet**

(Also referred to as the Executive)

#### **7.1 Composition of the Cabinet**

The Cabinet comprises:

- the Leader
- the Deputy Leader
- the ordinary members of the cabinet

#### **7.2 The Leader**

The Leader is appointed by the Council at the first Annual Meeting following the ordinary election of County Members and holds office for the period ending with the day of the annual meeting held after the next ordinary elections, unless the Leader within that period:

- (i) resigns from the office of Leader by giving notice in writing to the Chairman of the Council, copied to the Chief Executive; or
- (ii) ceases to be a Member of the Council; or
- (iii) is removed from the office of Leader by resolution of the Council.

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

#### **7.3 The Deputy Leader and Cabinet Members**

The Leader must appoint

- (i) another member of the Cabinet to act as Leader during any period of the Leader's absence, to be known as 'the Deputy Leader'; and
- (ii) between one and eight ordinary members of the Cabinet.

The Deputy Leader and each appointed Cabinet Member shall hold office until:

- (i) they resign from office by giving notice in writing to the Leader, copied to the Chief Executive (or if there is no Leader then to the Chief Executive); or
- (ii) they cease to be Members of the Council; or

- (iii) they are removed from office by the Leader.

Any vacant office of Deputy Leader or Cabinet Member may be filled by the Leader.

#### **7.4 Powers of the Executive and Terms of Reference of the Cabinet**

The Leader may discharge all executive functions in accordance with this constitution.

The Cabinet is authorised to make decisions on executive functions as authorised from time to time by the Leader.

Individual Cabinet members are authorised to make decisions on executive function as authorised from time to time by the Leader.

Specifically the Cabinet:

- (i) leads the Council's community planning process and has responsibility for ensuring best value;
- (ii) leads the preparation of the Council's policies, statutory plans, strategies and budget;
- (iii) takes decisions on resources and priorities to deliver and implement the Council's policies and budget;
- (iv) is the focus for forming partnerships with other organisations to address matters of common interest;
- (v) has overall responsibility for any policy or matter affecting the corporate interests of the Council;
- (vi) has responsibility for resolving any differences of view as between and/or amongst Cabinet Members;
- (vii) has responsibility for the implementation of decisions and actions within the Policy Framework set by the Council in relation to 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;
- (viii) has responsibility for determining overall Council priorities within the Budget and the Policy Framework set by full Council, to keep under review those priorities and to approve specific plans and strategies; and
- (ix) has responsibility for co-ordinating decisions between Cabinet Members' remits or on matters of major policy.

All Executive Decisions will be taken in accordance with the Cabinet Procedure Rules contained within Part 4 of the Constitution.

Cabinet Members are permitted to commission work from officers on policy initiatives, subject to the delegation of specific powers to the Chief Executive and Chief Officers contained within Part 3 of the Constitution.

## **7.5 Roles and Responsibilities of All Cabinet Members**

The duties and responsibilities of Cabinet Members, as set out below, are in addition to the role as a Member as set out in Article 3.8.

### **7.5.1 Purpose**

- (i) To provide collective and individual leadership as part of the Cabinet;
- (ii) to undertake lead responsibility for allocated portfolios contained in Part 3 of this Constitution; and
- (iii) to contribute effectively towards the strategic direction of the Council.

### **7.5.2 Duties and Responsibilities of Cabinet Members**

- (i) To participate effectively as a Member of the Cabinet, take joint responsibility with colleague Cabinet Members for all actions and to be accountable collectively. Challenge issues prior to making decisions if felt appropriate to do so. Ensure appropriate regard to the community's interests and to any equality and diversity issues. Encourage openness and honesty.
- (ii) To exercise delegated Executive powers in accordance with Part 3 of this Constitution.
- (iii) To shape and develop the strategic priorities and vision of the Council, participating in debates and discussion about policy issues across the range of services provided by the Council.
- (iv) To recognise the differing roles of Members and officers within the Council's Constitution.
- (v) To act as the Lead Member for a particular portfolio as may be determined by the Leader of the Council but, in doing so, have regard to the overall collective responsibilities of the Cabinet and the Council's corporate policy objectives. Champion the portfolio concerned within that strategic context.
- (vi) To represent the Council on external bodies, as appointed and feed back to the Cabinet on issues of relevance/importance.
- (vii) To facilitate a corporate leadership role where appropriate to do so and foster links through partnerships.



- (viii) To be responsible for continuous personal development, to take advantage of learning opportunities to build on understanding and knowledge and to develop relevant skills.
- (ix) Along with colleague Cabinet Members and the Corporate Leadership Team, to be available as appropriate for other Members to discuss any queries or matters of concern.
- (x) To promote positively the portfolio and where appropriate to act as the spokesperson with the media for that portfolio area only.
- (xi) In connection with the portfolio:
  - (a) to build good relationships with appropriate senior officers and work with them in developing policy or strategic issues prior to formal reporting. Be supportive in dealing with problems at a strategic level;
  - (b) to keep abreast of related developments and policies at national, regional and a local level;
  - (c) to enhance the Council's reputation through taking the national stage where possible and participating in regional and national networks;
  - (d) to aim for Essex to be at the forefront of service development and provision where possible; take an active interest in related performance indicators and rankings, including visiting Beacon Councils and exemplars of good practice;
  - (e) to represent the Cabinet at an Overview and Scrutiny Committee in connection with any related matter that may be 'called in'; similarly, attend an Overview and Scrutiny Committee at its request in connection with any issues associated with the portfolio that are being scrutinised;
  - (f) to be aware of issues of importance to the community and other stakeholders concerning portfolio services and work towards implementing a Community Strategy; and
  - (g) to be aware of key budgetary issues affecting the portfolio of the Cabinet Member.

## **7.6 Roles and Responsibilities of Deputies to Cabinet Members**

The duties and responsibilities of Deputies to Cabinet Members, as set out below, are in addition to the role as a Member as set out in Article 3.8.

The Leader may appoint Deputy Cabinet Members to a non-executive advisory role.

Deputy Cabinet Members may not exercise Executive functions.

### **7.6.1 Purpose**

To assist and work with the designated Cabinet Member with their responsibility for allocated portfolios with the exception of the exercising of any Executive function.

### **7.6.2 Duties and Responsibilities of Deputy Cabinet Members**

- (i) To oversee a specific area or areas of responsibilities within a Cabinet portfolio, as allocated by the Leader in consultation with the Cabinet Member, but not to make any formal decisions or sign Cabinet Member Actions.
- (ii) To undertake tasks in relation to the portfolio, as allocated by the Cabinet Member, subject to any specific requirements of the Council's constitution or Terms of Reference of external bodies.
- (iii) To assist the Cabinet Member in monitoring performance in specified areas relating to the allocated portfolio.
- (iv) To attend Cabinet, and report to Cabinet, in the absence of the relevant Cabinet Member, but Deputies cannot vote.

## **7.7 Cabinet Proceedings**

Proceedings of the Cabinet will take place in accordance with the Cabinet Procedure Rules contained within Part 4 of this Constitution.

## **7.8 Responsibility for Executive Functions**

The arrangements for the discharge of Executive functions are contained within Part 3 of the Constitution.

The Executive functions are vested in the Leader who may arrange for them to be:

- (i) the Cabinet as a whole;
- (ii) a committee of the Cabinet;
- (iii) an individual Member of the Cabinet;
- (iv) an officer;
- (v) an area committee;
- (vi) joint arrangements; or
- (vii) another local authority.

The Leader of the Council will maintain Part 3 of this Constitution setting out which Members of the Cabinet, Committees of the Cabinet, Officers or joint arrangements are responsible for the exercise of particular Executive functions.

## **7.9 Cabinet Committees**

The Leader or the Cabinet may appoint Cabinet Committees and delegate executive functions to each Committee. The Shareholder Board has been appointed as a Cabinet Committee.

### **Appendix to Article 7 – Terms of reference of the Shareholder Board**

#### **Membership**

The Board is a committee of the Cabinet with the following membership:

1. The Leader
2. The Cabinet Member with Responsibility for Finance (currently known as ‘the Chancellor of Essex’)
3. Another member selected by the Leader

The quorum is two.

Another member of the Cabinet may be substituted.

The Board will normally meet quarterly.

#### **Terms of reference:**

1. The Board may make any decision which the Council may make in its capacity as:
  - (a) Member or shareholder of any company, limited liability partnership or other corporate body
  - (b) A party to any agreement between shareholders of a body falling within (a)
  - (c) Approve the business plan of any body falling within (a)
  - (d) An entity mentioned in the constitution of another body.
2. The Board may make policy and issue guidance relating to how any body should operate or be managed.
3. The Board must ensure that it reviews every organisation falling within 1(a) at least once a year, but such review may be done by members of the Board reviewing the papers and need not take place at a meeting of the Board

## Article 8

### Council Committees

#### 8.1 Council Committees

The Council will appoint the committees set out below to discharge the functions listed under each.

Each of the committees will conduct its business in accordance with the Standing Orders of the Council and Access to Information Procedure Rules as contained within Part 4 of this Constitution, and will meet in public unless the nature of the business is such that the press and public must be excluded or the Committee determined that the press and public should be excluded in accordance with the Access to Information Procedure Rules.

The Council has the following Council Committees. The Essex Pension Fund Advisory Board is included as a statutory body created by the Full Council.

##### 8.1.1 Development and Regulation Committee

Membership: 12 Members of Council.

To exercise the Council's powers and duties in respect of the following Local Choice Functions:

- (i) any functions under a local Act;
- (ii) obtaining information as to interests in land under Section 330 of the Town and Country Planning Act 1990;
- (iii) the obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976; and
- (iv) the making of agreements for the execution of highway works under Section 278 of the Highways Act 1980.

To exercise the Council's powers and duties in respect of the following Council functions which by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the 'Regulations') (or any amendments to them) are not the responsibility of the Council's Cabinet:

- (i) Town and Country Planning and Development Control matters as specified in paragraphs 5-31 of Schedule 1A of the Regulations and paragraph 47 of Schedule 1I of the Regulations;
- (ii) registration of common land or town and village greens as specified in Schedule 1B paragraphs 37, 38 and 72 of the Regulations;

- (iii) Highways and rights of way matters as set out in Schedule 1B paragraphs 41, and 46A, 47-55 and in Schedule 1I paragraphs 1-34 of the Regulations; and
- (iv) Licensing and registration matters, as set out in Schedule 1B paragraphs 22, 26, 27, 31, 42-46 and 56 of the Regulations.

### **8.1.2 Audit, Governance and Standards Committee**

Membership: Ten Members of the Council and one non-voting co-opted Member.

The co-opted Member shall be appointed to the committee for a term of not exceeding four years and shall be selected by the Committee following public advertisement. At the expiry of the term of appointment the vacancy shall be advertised and a further selection process undertaken. The sitting member shall be eligible for reappointment.

No member of the Cabinet may be appointed to the Committee or any of its Sub-Committees.

#### **Purpose**

1. To review the Council's Annual Statement of Accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
2. To receive and approve the Council's Annual Governance Statement ensuring that it reflects the Council's governance arrangements.
3. To receive and approve the Final Accounts, Memorandum and the Report to those charged with Governance from the External Auditors.
4. To consider the Annual Audit and Inspection Letter from the External Auditors and to provide such advice and comments on the Letter to the Cabinet and Council as the Committee believes appropriate.
5. To receive the internal and external audit plans and comment on these plans, including the extent to which they provide value for money.
6. To ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit is actively promoted.
7. To receive reports from the Council's Internal Auditor on the outcome of audit reviews and investigations and the implementation of recommendations, including the annual report of the Chief Audit Executive.

8. To receive any reports from the External Auditor about the effectiveness of the Council's financial and operational arrangements and monitor Management's response to the issues raised by External Audit.
9. To monitor the effectiveness of the Council's Financial Regulations, and Procurement Procedure Rules and recommend changes to Council.
10. To approve and monitor the effectiveness of strategies for anti-fraud and corruption, whistle blowing and any legislation relating to the regulation of investigatory powers.
11. To consider the Council's arrangements for corporate governance and risk management and to advise on any action necessary to ensure compliance with best practice.
12. To advise the Council on the local Code of Conduct for members and to promote, develop and maintain high standards of conduct by members and co-opted members of the Council.
13. To keep the Code of Member Conduct under review and recommend changes to the Code or the Constitution to support high standards of Conduct.
14. To grant dispensations under Section 33 of the Localism Act 2011 and under the Code of Member Conduct to councillors and co-opted members.
15. To approve processes for considering complaints that any Councillor or Co-opted Member has failed to comply with the Code of Conduct.
16. To create one or more sub-committees as required to receive and consider allegations of misconduct of elected members, to take further oral and written evidence, adjudicate and make recommendations to the Leader of the Council and others.
17. To make arrangements for the appointment of Independent Persons under the provisions of the Localism Act 2011.
18. To make arrangements for training of Members relating to standards issues.

#### **Standards Sub-Committee – Terms of Reference**

Membership: Between 3 and 5 members of the Council appointed by the Monitoring Officer in consultation with the Chairman of the Audit, Governance and Standards Committee and the Leaders of relevant political groups in accordance with the political balance rules.

1. To exercise any of the Committee's powers with respect to decisions about individual complaints about breaches of the Code of Member Conduct

### 8.1.3 Senior Management Employment Committee

Membership: Five Members of the Council to include the appropriate Cabinet Member.

- (i) subject to (iv) below, to be responsible for the appointment and dismissal of Chief/Deputy Chief Officers and appeals against dismissal of such persons with the power:
  - (a) to appoint sub-committees of three Members to deal with particular appointments, dismissals or appeals; and
  - (b) to authorise the Chief Executive or his nominee to deal with a particular appointment or dismissal;
- (ii) to make decisions relating to the terms or conditions of employment of Chief/Deputy Chief Officers not already covered by the Council's Officer Employment Procedure Rules; and
- (iii) to decide the level of performance pay to be awarded to the Chief Executive and members of the Corporate Leadership Team and any proposal to make any payment to any such person above the assessed 'rate for the job' for any such role.
- (iv) The Committee is not authorised to dismiss the Head of the Paid Service, the Monitoring Officer or the Section 151 Officer.

#### Senior Management Employment Sub-Committee – Terms of Reference

Membership: Three Members of the Council to include the appropriate Cabinet Member.

1. To exercise any of the Committee's powers with respect to any particular Deputy Chief Officer (but not changes affecting more than one such post).

### 8.1.4 Essex Pension Fund Strategy Board

Membership: There are eleven Members of the Essex Pension Fund Strategy Board (PSB) including:

| All Voting* Members      | How Nominated or Appointed | Term of Office   |
|--------------------------|----------------------------|--|
| 7 Members of the Council | Appointed by the Council   | 1 year as appointed at the annual meeting of the Council or as changed from time to time by the Constitution |

|  |  |                                      |
|--|--|--------------------------------------|
| 1 Member Councillor representing Borough, City and District Councils in Essex              | Nominated by Essex Borough and District Leaders/Chief Executives   | 4 years from the date of appointment |
| 1 Member Councillor representing Southend on Sea City Council and Thurrock Borough Council | Nominated jointly by and from either Southend-on-Sea City and Thurrock Councils  | 4 years from the date of appointment |
| 1 Member representing other Employing Bodies   | Nominated by other employers at the employer forum or such other process as agreed by the Chairman and the Director for Essex Pension Fund and must be in the employment of or hold office in relation to an Essex Pension Fund (EPF) employer | 6 years from date of appointment     |
| 1 member representing Scheme Members   | Nominated by Unison and must be a member of the Essex Pension Fund   | 6 years from date of appointment     |

\*voting is subject to other provisions within this document.

The Constitution does not permit non-Essex County Council members to have substitutes.

### **Quorum**

A meeting of the PSB shall only be quorate when:

- i) At least 4 members are present, and
- ii) At least 3 of the members present are Essex County Council members.

### **Term of Office**

The Term of Office may be extended by up to six months if considered necessary for the purpose for the appointment process, for example, due to the timing of local authority elections, with the agreement of the Director for Essex Pension Fund.

Any PSB Member may be re-appointed for further terms following the appropriate appointment process.

A Member may resign by giving notice to the Director for Essex Pension Fund and shall cease to be qualified to be a member of the PSB if they cease to hold the office or employment which qualifies them for the role.

### **Role and Function**



The PSB will exercise on behalf of the Council all of the powers and duties of the Council in relation to its functions as Administering Authority of the Essex Pension Fund except where they have been specifically delegated by the Council to another Committee or to an Officer. Its principal aim is to consider pensions matters with a view to safeguarding the interests of all pension fund Members. In doing so, the PSB will take account of advice from the Director for Essex Pension Fund and the Fund's professional Advisers.

The role of the PSB will include the following specific functions:

- (i) to monitor and oversee the work of the Essex Pension Fund Investment Steering Committee (ISC) through its quarterly reports;
- (ii) to ensure the proper administration of the Fund, including compliance with the Local Government Pension Scheme (LGPS) and other legislation, ensuring that it delivers best value and compliance with statutory and non-statutory best practice guidance where considered appropriate;
- (iii) to determine, review and monitor the Fund's aims, objectives, strategies, compliance statements and procedures relating to the funding strategy, including approving its Funding Strategy Statement;
- (iv) to make arrangements for the actuarial valuation, ongoing monitoring of liabilities and to undertake any asset/liability and other relevant studies as required;
- (v) to determine, review and monitor the Fund's policy in regard to Employer admission and cessation arrangements;
- (vi) to determine, review and monitor the Fund's other aims, objectives, policies, strategies, compliance statements and procedures for the overall management of the Fund, including but not limited to administration, communications and governance;
- (vii) to determine how the various Administering Authority discretions are operated for the Fund;
- (viii) to agree Administering Authority responses to consultations by Central Government, professional and other bodies;
- (ix) to consider any views expressed by employing organisations and staff representatives;
- (x) to both appoint and terminate the appointment of the Fund's advisers, including actuaries, governance advisers and specialist lawyers (where required) and periodically to review those arrangements;

- (xi) to agree the Fund's business plans and monitor progress against them;
- (xii) to consider the Fund's financial statements and to approve an Annual Report on the activities of the Fund in line with legislation and guidance; and
- (xiii) to agree a Knowledge and Skills Strategy and ensure its requirements are adhered to.

No matters relating to Essex County Council's responsibilities as an Employer participating in the Essex Pension Fund are delegated to the PSB.

### **Officers**

The PSB may delegate a range of its functions to one or more officers of the Administering Authority. The PSB will be responsible for outlining expectations in relation to reporting progress of delegated functions back to the PSB. Any delegations the PSB makes to Officers should be notified to the Council's Monitoring Officer.

### **Chairman**

- (i) Only members of Essex County Council may be the Chairman and Vice Chairman.
- (ii) The Chairman will be elected by the County Council at the annual meeting.
- (iii) The Vice-Chairman will be elected annually by members of Essex County Council at the PSB.

The Chairman of the PSB is expected to lead by example, representing the scheme's interests to all relevant parties and managing conflicts independently. The Chairman will encourage strategic thinking, and foster participation from all PSB Members. Key skills relevant to the role of the PSB Chairman include effective communication, attendance at training, debating, negotiating, understanding diverse views, and managing conflicts of interest.

### **Training**

The Essex Pension Fund has a dedicated Knowledge and Skills Strategy which applies to all members of the Board and which includes the expectation to attend regular training sessions in order to maintain an appropriate level of knowledge and skills to perform their role effectively.

### **Expected Standards and Behaviours of PSB Members**

Elected Council representatives of the PSB are required to adhere to Part 5, Codes of Conduct, of the Essex County Council Constitution in relation to the standards of conduct of Board Members. However, both elected and non elected PSB Members should also be aware of the expected standards and behaviours as set out in The Pensions Regulator (TPR) General Code of Practice (GCOP) which include:

- a. Act honestly and with integrity, competence, and capability.
- b. Act with financial probity, including in matters outside their role.
- c. Meet their legal obligations and govern their scheme properly and according to scheme rules.
- d. Act in the interest of scheme members and beneficiaries.
- e. Seek to ensure that all scheme members, whether active, deferred, drawing a pension, or in a decumulation phase, benefit from good governance.
- f. Be open and honest in their dealings with any other Fund representatives and TPR.
- g. Have or be able to acquire the appropriate levels of knowledge and understanding and keep these up to date.
- h. Identify and where relevant, challenge others on any potential or actual failure to comply with the scheme rules, regulations, and legislation.

## **Remuneration**

Any Co-optee to the PSB who is not an employee, Officer or Member of their appointing organisation and who is not otherwise entitled to payment for time spent on the role is entitled to claim an allowance in accordance with Appendix 2.

The agreed allowance to be paid is £17.95 per hour to include reasonable preparation time. Therefore it is considered that the following can be claimed:

- PSB attendance - up to four hours which includes preparation time = £71.80 per meeting
- ISC attendance - up to four hours which includes preparation time = £71.80 per meeting
- ISC Strategic meeting attendance - up to six hours which includes preparation time = £107.70 per meeting
- Extra activities = £17.95 per hour which includes:
  - attendance at internal training events hosted by Essex Pension Fund;
  - attendance at and preparation for Task and Finish Groups; and
  - attendance at and preparation for the Appointments Panel, as part of the Essex Pension Fund Advisory Board (PAB) appointments process.

This allowance does not include time spent on external training or observing at Essex Pension Fund Advisory Board meetings.

## **Essex Pension Fund Advisory Board**

Members of the Essex Pension Fund Advisory Board (PAB) are permitted to attend the PSB, including during any items of private business. Comments may

also be made by these persons subject to permission to speak being granted by the Chairman. In accordance with the Fund's Conflicts of Interest Policy, a member of the PAB may be asked to leave the room during an item where they have a potential conflict of interest.

### 8.1.5 Essex Pension Fund Investment Steering Committee

Membership: There are nine Members of the Investment Steering Committee (ISC).

All ISC Members shall be drawn from Essex Pension Fund Strategy Board (PSB) membership as follows:

| <b>Members</b>   | <b>How Nominated or Appointed</b>  |
|--|--|
| 7 Members of the Council (voting members)                    | All Council members of the PSB   |
| 1 Member representing Employers in Essex (non-voting member) | The Member of the PSB nominated by Essex Borough, City and District Leaders/Chief Executives |
| 1 Member representing Scheme Members (non-voting member)     | The Member of the PSB nominated to represent Scheme Members                                  |

The Chairman and Vice-Chairman of the ISC shall be the Chairman and Vice-Chairman of the PSB respectively.

#### **Quorum**

A meeting of the ISC shall only be quorate when there are three voting members present.

#### **Term of Office for non-voting members**

The Term of Office for non-voting members is as follows:

| <b>Members</b>   | <b>Term of Office</b>                |
|--|--------------------------------------|
| The Member of the PSB nominated by Essex Borough, City and District Leaders/Chief Executives | 4 years from the date of appointment |
| The Member of the PSB nominated to represent Scheme Members                                  | 6 years from date of appointment     |

The Term of Office for non voting members may be extended by up to six months if considered necessary for the purpose for the re-appointment process, for example, due to the timing of local authority elections, with the agreement of the Director for Essex Pension Fund.

Any ISC non-voting Member may be re-appointed for further terms following the appropriate appointment process in line with the PSB.

A Non-voting Member may resign by giving notice to the Director for Essex Pension Fund or Leader of the Council and shall cease to be qualified to be a member of the ISC if they cease to hold the office or employment which qualifies them for the role.

### **Role and Functions**

- (i) to approve and review the asset allocation benchmark for the Fund;
- (ii) to determine, review and monitor the Fund's aims, objectives, policies, strategies and procedures relating to investment of the Fund's assets including the Investment Strategy Statement and any Environmental, Social and Governance (ESG) matters;
- (iii) to appoint and terminate Investment Managers (in relation to non-pooled assets), Custodians and Advisers to the Fund solely relating to investment matters;
- (iv) In relation to the LGPS ACCESS Pension Fund Pool;
  - a. to consider pooling matters including recommendations by the ACCESS Joint Committee;
  - b. to determine the transition of the assets held by Essex Pension Fund in relation to the Pool and the funds or sub-funds operated by the Operator;
  - c. to appoint the elected Councillor for Essex County Council (ISC Chairman) to the Joint Committee as and when required with the ISC Vice Chairman, or any other Member, able to deputise in their absence;
  - d. to advise the representative on the Joint Committee on such matters as may be required;
  - e. to monitor the performance of the LGPS ACCESS Pool and its Operator and recommending actions to the ACCESS Joint Committee or ACCESS Support Unit, as appropriate;
  - f. to receive and consider reports from the LGPS ACCESS Joint Committee and the Operator;
  - g. to undertake any other decisions or matters relating to the operation or management of the LGPS ACCESS Pool as may be required.
- (v) to assess the quality and performance of each Investment Manager and the relevant ACCESS Operator annually in conjunction with Essex Pension Fund investment advisers and the Section 151 Officer;
- (vi) to monitor compliance of the investment arrangements with the Investment Strategy Statement;

- (vii) to monitor and review the Fund's compliance with the LGPS Scheme Advisory Board adopted Code of Transparency and UK Stewardship Code;
- (viii) to assess the risks assumed by the Fund at a global level as well as on a manager by manager basis;
- (ix) to approve and to review annually the content of the Pension Fund Treasury Management Strategy; and
- (x) to submit quarterly reports on its activities to the PSB.

## **Training**

The Essex Pension Fund has a dedicated Knowledge and Skills Strategy which applies to all members of the ISC and which includes the expectation to attend regular training sessions in order they may maintain an appropriate level of knowledge and skills to perform their role effectively.

## **Essex Pension Fund Advisory Board (PAB)**

Members of the PAB are permitted to attend the ISC, including during any items of private business. Comments may also be made by these persons subject to permission to speak being granted by the Chairman. In accordance with the Fund's Conflicts of Interest Policy, a member of the PAB may be asked to leave the room during an item where they have a potential conflict of interest.

### **8.1.6 The Essex Pension Fund Advisory Board**

#### **1. Introduction**

The Essex Pension Fund Advisory Board was appointed by Essex County Council (the Scheme Manager and Administering Authority to Essex Pension Fund) on 10 February 2015 as its Local Pensions Board in accordance with section 5 of the Public Service Pensions Act 2013 and Part 3 of the Local Government Pension Scheme (LGPS) Regulations 2013. As such, Parts 3 and 4 of the Constitution of Essex County Council do not apply to this Pension Fund Advisory Board unless expressly referred to within and permitted by these Terms of Reference and Rules of Procedure. The Pension Fund Advisory Board is referred to in these terms of reference as 'the Board'.

In these terms of reference:

"GCOP" means the General Code of Practice issued by TPR

"EPF" means the Essex Pensions Fund

"ISC" means the Essex Pension Fund Investment Steering Committee

"LGPS" means the Local Government Pension Scheme

"PSB" means the Essex Pension Fund Strategy Board"

"Scheme Manager", "Council" and "ECC" means Essex County Council

"TPR" means The Pensions Regulator

“Member” means a member of the Board

“Board” means the Essex Pension Fund Advisory Board.

The Board will exercise all its powers and duties in accordance with legislation and these Terms of Reference and Rules of Procedure. The Board shall have the power to do anything which is considered to facilitate, or is conducive or incidental to, the discharge of its functions.

## 2. Appointment and Membership of the Board

(A) The Board shall consist of nine Members and will be constituted as follows:

| Members   | How Nominated or Appointed   |
|---|--|
| 4 Employer representatives made up of one from each of the following groups of Employers in the Fund: | ECC (an elected Member)  |
|   | The District, City and Borough Councils of Essex (an elected Member)                   |
|   | Southend-on-Sea City and Thurrock Unitary Authorities (an elected Member)              |
|   | All other Employers  |
| 4 Scheme Member representatives of which:   | One will be nominated by the trade unions  |
|   | The rest will be drawn from the total Fund’s active, deferred and pensioner membership |
| 1 Independent Chairman  | Through appointment process  |

(B) The Employer representatives in 2(A) above will be appointed by the respective authorities referred to in each of those clauses.

(C) The Other Employer representative as per clause 2A above, and Scheme Member representatives, and the Independent Chairman will be appointed through a clear and transparent process as determined by an Appointments Panel which will consist of:

- (i) the Chairman of the PSB
- (ii) the Scheme Member representative from the PSB
- (iii) the Director for Essex Pension Fund

and will be advised by the Independent Governance and Administration Adviser for EPF.

The Appointments Panel will also be supported by Officers of the EPF as considered as appropriate by the Appointments Panel.

The Appointments Panel will define any eligibility and/or selection criteria that will apply to Board Members within the scope of this procedure, beyond those already included in these Terms of Reference and Rules of Procedure, having due regard to the LGPS Regulations and any other relevant Code of Practice

and guidance. The Appointments Panel will have the power to appoint or reject any nomination or applicant where they consider the individual does not meet the eligibility and/or selection criteria. Should any of the Appointments Panel members be unable to undertake their responsibilities they, or the remainder of the Appointments Panel in their absence, may delegate a suitable alternate to undertake Appointments Panel responsibilities on their behalf.

(D) Where any Employer, other than ECC, has a representative on the PSB or ISC, that Employer will not be permitted to also have a representative on the Board.

(E) No Officer of ECC who is either responsible for discharging any function in relation to the LGPS regulations or has delegated decision-making authority in relation to LGPS matters may be a member of the Board.

(F) No member of the PSB or ISC may be appointed to the Board.

(G) All Scheme Member and Employer representatives must have the capacity to represent their EPF Members and Employers as appropriate

(H) The Board shall appoint a Vice Chairman annually from amongst its Members at the first meeting of the Board after each annual meeting of the Council. This will be done by a nomination process followed by a show of hands from those in attendance at that first meeting.

### **3. Quorum and Meetings of the Board**

When planning and running meetings, the PAB follows the governance processes, as set out in the Governance Policy and Compliance Statement including meeting frequency and attendance.

(A) A meeting of the PAB shall only be quorate when:

i) 4 Members are present including at least the Chairman or Vice-Chairman, 1 Employer representative and 1 Scheme Member representative.

A meeting that is (or becomes at any point) inquorate will only continue if the Chairman (or Vice-Chairman) decides it should and in relation to items of business as agreed by the Chairman (or Vice-Chairman). Attendance will be recorded and monitored by the EPF.

(B) Substitutes will not be permitted.

(C) Meetings will normally be held at the offices in County Hall, Chelmsford offering a Hybrid approach allowing Members to dial in via telephone/video conferencing facilities.



(D) Following such procedure as determined by the Chairman, urgent business of the Board between meetings may in exceptional circumstances between Members of the Board including telephone/video conferencing and e-mails.

(E) The Board will normally meet four times in each calendar year and must meet a minimum of twice in each calendar year.

(F) It is expected that voting by the Board will only be in exceptional circumstances and the Board will, as far as possible, reach a consensus. Each Scheme Member representative and Employer representative will be entitled to vote where voting is considered necessary by the Chairman.

(G) Where voting is considered necessary by the Chairman, in the event of an equal number of votes being cast for or against a proposal, there shall be no casting vote but the proposal shall be considered to have been rejected.

(H) The results of any voting outcomes will be recorded in the Board meeting record.

(I) The Independent Chairman of the Board will not be entitled to vote.

(J) Meetings of the Board are not open to the general public. The following will be entitled to attend Board meetings as observers and may be asked to present information or answer questions by the Board. Comments may also be made by these persons subject to permission to speak being granted by the Chairman:

- i. Members of the PSB and ISC
- ii. The Chief Executive, the Director for Essex Pension Fund, the other Officers holding managerial positions for EPF, and the Monitoring Officer
- iii. Other Officers or Advisers of the EPF or the Scheme Manager with responsibilities in relation to matters being considered by the Board or providing support to the Board including carrying out the administration for the Board
- iv. Other Employers participating in the EPF subject to approval in advance by the Chairman, or on request of the Chairman
- v. Any other person requested to attend by the Chairman

#### **4. Term of Office**

(A) Employer representative appointments will expire after a period of four years from the date of establishment of the PAB or the date of their appointment if later. This period may be extended to up to six years if agreed by the Director

for Essex Pension Fund. It will automatically cease if the individual is no longer in the employment of that employer, no longer holds office in relation to that employer or is no longer an elected member of that employer, as appropriate.

(B) Scheme member representative appointments will expire after a period of four years from the date of establishment of the PAB or the date of their individual appointment if later. This period may be extended to up to six years if agreed by the Director for Essex Pension Fund. It will automatically cease if the individual is no longer a trade union representative or representative of EPF members (in accordance with the criteria set by the Appointments Panel).

(C) The Independent Chairman's appointment will expire after a period of four years from the date of establishment of the PAB or the date of their individual appointment if later. This period may be extended to up to six years if agreed by the Appointments Panel.

(D) Any Board member, including the Independent Chairman, may be reappointed for further terms following an appointment process.

(E) The Term of Office may be extended by up to six months if considered necessary for the purpose of the appointment process, for example, due to the timing of local authority elections, with the agreement of the Director for Essex Pension Fund.

(F) In relation to Scheme Members representatives who are appointed by the Appointments Panel, other than ceasing to be eligible (as set out above) a Board member may only be removed from office during the Term of Appointment by the unanimous agreement of the Appointments Panel. Such reasons may include non-compliance with this Terms of Reference and Rules of Procedure including inappropriate conduct, conflicts of interest, avoidance of training or low meeting attendance, not having the capacity to represent their members or for any other reason not meeting the criteria required to be a Board member.

(G) The removal of the Independent Chairman requires unanimous agreement from the Appointments Panel.

## **5. Role and Functions of the Board**

The Board has the following roles and functions:

(A) To assist the Scheme Manager:

- to secure compliance with the LGPS regulations and any other legislation relating to the governance and administration of the LGPS
- to secure compliance with requirements imposed in relation to the LGPS by TPR

(B) To assist the Scheme Manager to ensure the effective and efficient governance and administration of the LGPS for the EPF.

In doing this, the Board:

- a) shall assist the Scheme Manager with such matters as the LGPS regulations and guidance may specify.
- b) shall be a “critical friend” to the PSB and the ISC.
- c) may provide oversight of decisions made by the PSB and ISC to ensure that due process has been followed.
- d) may review any decision made by or on behalf of the Scheme Manager or any action taken by the Scheme Manager.
- e) shall comment on and assist in identifying and managing breaches of the law in relation to EPF matters where required.
- f) at the invitation of the PSB, may also undertake other tasks, including (but not limited to):
  - assisting the PSB by reviewing aspects of the performance of the EPF – for example by reviewing the risk management arrangements within EPF (although the PSB will remain accountable for risk management);
  - reviewing administration standards or performance or review efficacy of EPF Member and Employer communications;
  - reviewing published policies to ensure they remain fit for purpose and are complete;
  - reviewing EPF annual reports;
  - being part of any consultation process with the purpose of adding value to that process based on, for example, their representation of Employers and EPF Members;
  - discussing strategic matters such as communications where requested by the PSB.
- g) shall provide such information as is requested to other bodies including but not limited to the LGPS Scheme Advisory Board and TPR and provide an annual report of the work of the Board to the Scheme Manager.
- h) will prepare a record of each meeting which will normally be published no later than 12 working days following the meeting using the appropriate systems of the Scheme Manager.
- i) must provide a record of each meeting to the following PSB meeting and may make reports and recommendations to the PSB insofar as they relate to the role of the Board (see “Reporting and Escalation”).

The Board is not a decision-making body in relation to the management of the EPF but makes recommendations to assist in such management. The EPF's management powers and responsibilities which have been, and may be, delegated by the Council to committees, sub-committees and officers of the Council, remain solely the powers and responsibilities of those committees, sub-committees and officers. The Board operates independently of the Essex PSB.

Though members of the Board include representatives of specific categories of stakeholder (i.e. pension Scheme Members and categories of Employers within the EPF) each Member is required to have due regard to this document. All Members of the Board are expected to work jointly in the best interest of EPF, rather than representing the interest of any individual stakeholders or organisations. This should not prevent Members from sharing their knowledge on how matters might impact specific stakeholders of the EPF.

## **6. Expected Standards and Behaviours of Board Members**

TPR GCOP has defined the expected standards and behaviours of Board Members which include:

- a. Act honestly and with integrity, competence, and capability.
- b. Act with financial probity, including in matters outside their role.
- c. Meet their legal obligations and govern their scheme properly and according to scheme rules.
- d. Act in the interest of scheme members and beneficiaries.
- e. Seek to ensure that all Scheme Members, whether active, deferred, drawing a pension, or in a decumulation phase, benefit from good governance.
- f. Be open and honest in their dealings with any other Fund representatives and TPR.
- g. Have or be able to acquire the appropriate levels of knowledge and understanding and keep these up to date.
- h. Identify and where relevant, challenge others on any potential or actual failure to comply with the scheme rules, regulations and legislation.

In addition, Board Members who are Councillors or employees must comply with the standards expected of those roles set by their employer/Local Authority, including any requirement to declare interests etc.

## **7. Chairing**

The role of the Chairman is to:

- (A) Ensure that all Members show due respect for process, that all views are fully heard and considered and that decisions are democratically made where consensus cannot be reached.
- (B) To uphold and promote the purpose of the Board and to interpret its Terms of Reference and Rules of Procedure when necessary.

- (C) Ensure that Members have the facilities and make appropriate efforts to achieve the knowledge and skills as determined in the EPF Knowledge and Skills Strategy and other guidance or legislation and ensure a training record is monitored and maintained.
- (D) Act as professional adviser for the Board or arrange such advice as required to be provided subject to agreement by the Director for Essex Pension Fund.
- (E) Agree the agenda for each Board meeting.
- (F) Approve records of each Board meetings.
- (G) Ensure an attendance record is maintained to allow the Scheme Manager to make arrangements for remuneration and expenses to be paid.
- (H) Agree with the Scheme Manager an appropriate budget for the Board, which is ratified by the Board before being formally approved by the Scheme Manager along with the EPF Annual Budget.
- (I) Write reports required by the Scheme Manager on the work of the Board.
- (J) Liaise with the Director for Essex Pension Fund on the requirements of the Board, including advanced notice for Scheme Manager officers to attend and arranging dates and times of Board meetings.
- (K) To provide guidance on all points of procedure and order, and the Chairman's interpretation of these Terms of Reference and Rules of Procedure shall be final.
- (L) Other tasks which may be deemed appropriate by the Scheme Manager for the Chairman of the Board.
- (M) To commission advice or work on behalf of the Board.
- (N) To liaise with the Chairmen of the PSB and ISC as deemed appropriate.
- (O) Other tasks that may be requested by the members of the Board, within the remit of these Terms of Reference and Rules of Procedure and subject to agreement with the Director for Essex Pension Fund.
- (P) To annually review and report on the activities of the Board.

## **8. Expected Skills and Behaviours of the Chairman**

TPR GCOP has defined the expected skills and behaviours of the Chairman. The GCOP does not expect a higher standard of knowledge from the Chairman but has listed the expectations of the Chairman. As a matter of good practice, the Chairman needs to be able to demonstrate the skills and behaviours outlined below:

- A. Act as the leader of the Board and demonstrate the standards of behaviour expected from other members of the Board.
- B. Represent the interests of the scheme to all relevant parties, including employers, advisers, service providers and Scheme Members.
- C. Have an independent viewpoint when necessary and be able to manage potential conflicts.
- D. Be able to recognise each individual trustee's potential, and ensure their knowledge and skills are used effectively.
- E. Encourage members of the PAB to think strategically and take the broad, long-term view.
- F. Help achieve compromise and consensus between differing parties to achieve good member outcomes.
- G. Encourage participation from all members of the PAB, including new members.
- H. Be able to demonstrate elements of the following skills:
  - communication with the PAB and its stakeholders;
  - ability to undertake relevant;
  - debating, challenging, and negotiating;
  - ability to gather and understand diverse views; and
  - managing conflicts of interest.

## **9. Reporting and Escalation**

(A) Where the Board wish to make a recommendation to the PSB or ISC they should do so in writing to the Director for Essex Pension Fund. The recommendation will normally be considered at the next available meeting of the body concerned. The next available meeting will normally be the first meeting which takes place 20 days after the recommendation is issued.

(B) As permitted by clause 2, the Board may review any decision made by or on behalf of the Scheme Manager or any action taken by the Scheme Manager. Where the Board has reviewed a decision or action and believe the wrong decision has been made or wrong course of action has been taken and wish this decision or action to be escalated, the following process shall be followed:

Stage 1: The Board may refer a decision or action to the original decision maker or responsible person if at least 3 employer representatives and 3 scheme member representatives believe that one or more of the following applies:

1. the decision maker/responsible person was not authorised to make the decision or take the action in question;
2. the decision/action was in breach of legislation and/or regulations;
3. the decision maker/responsible person did not follow professional advice given (or did not take professional advice) and it is believed that this could result in a materially bad outcome for the EPF;
4. the approach to making the decision or take the action did not follow one or more of the following principles:

- (i) the decision-maker/responsible person did not ask themselves the right question(s);
- (ii) the decision-maker/responsible person did not direct themselves correctly in law; in particular did not adopt a correct interpretation of the legislation and regulations relevant to the EPF;
- (iii) the decision-maker/responsible person did not take into account all relevant facts;
- (iv) the decision-maker/responsible person arrived at a perverse decision or took a perverse action (i.e. a decision or action which no reasonable decision-maker/responsible person could have reached)

5. New material has come to light that might have resulted in a different outcome provided that the original decision or action has not yet been irrevocably implemented.

Stage 2: If the Board is dissatisfied with the response of the decision maker/appropriate person, it will seek the advice of the Director for Essex Pension Fund (unless the Director was the original decision maker).

Stage 3: Where the decision-maker/appropriate person in question is the Director for Essex Pension Fund and the Board remains dissatisfied with the response or resolution from the Director for Essex Pension Fund it will seek the joint advice of the ECC's section 151 Officer and ECC's Monitoring Officer.

Stage 4: Where the Board remains dissatisfied with the joint response from the Chief Executive and ECC's Monitoring Officer. The Board will seek the advice of the National LGPS Advisory Board (and shall inform the Director for Essex Pension Fund, ECC's section 151 Officer and ECC's Monitoring Officer that it has done so).

## **10. Standards and Conflicts of Interest**

A conflict of interest is defined in the Public Service Pensions Act 2013 as: “in relation to a person, means a financial or other interest which is likely to prejudice the person’s exercise of functions as a member of the board (but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme).”

(A) Members shall comply with the EPF Conflicts of Interest Policy insofar as it relates to Members.

(B) Members of the Board must provide, as and when requested by the Scheme Manager, such information as the Scheme Manager requires to identify all potential conflicts of interest and ensure that any member of the Board or person to be appointed to the Board does not have a conflict of interest at appointment or whilst a member of the Board.

(C) Part 24 of the ECC's Members' Code of Conduct shall apply in relation to the standards of conduct of Members insofar as they can be reasonably considered to apply to the role of members of the Board, including the non-disclosure of confidential information.

(D) Members must adhere to the requirements of the EPF Procedure for Monitoring and Reporting Breaches of the Law and should be mindful of the individual legal requirements in relation to reporting breaches of the law in relation to EPF matters.

## **11. Knowledge and Understanding**

Under the requirements of the Public Service Pensions Act 2013, Members must be conversant with:

- a) the legislation and associated guidance of the LGPS, and
- b) any document recording policy about the administration of the LGPS which is adopted by the EPF.

In addition, a Members must have knowledge and understanding of:

- The law relating to pensions, and
- Any other matters which are prescribed in regulations.

It is for individual Members to be satisfied that they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a Member.

In line with this requirement Members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date. Members are therefore required to:

- participate in training events (a written record of relevant training and development will be maintained)
- undertake a personal training needs analysis or other method to identify gaps in skills, competencies and knowledge.
- Comply with the EPF Knowledge and Skills Strategy insofar as it relates to Members.

## **12. Remuneration and Expenses**

(A) Subject to (B) below, an allowance may be made to Scheme Member representatives for attending meetings relating to Board business at a rate of £17.95 per hour, in line with the PSB Co-optee allowance at Appendix 2.

This allowance includes reasonable preparation time. Therefore it is considered that the following can be claimed:

- PAB attendance - up to four hours which includes preparation time = £71.80 per meeting
- Extra activities = £17.95 per hour which includes:



- attendance at internal training events hosted by EPF; and
- attendance at and preparation for Task and Finish Groups.

This allowance does not include time spent on external training events or observing at PSB or ISC meetings.

(B) It is hoped that Employers of Members who represent people who are members of the pension scheme will provide appropriate capacity to allow the representative to perform this role within their normal working day without any reduction in pay or leave. If that is the case, the representative will not be entitled to any allowance.

(C) Employer and pension scheme member representatives shall be entitled to claim travel and subsistence allowances at the rates contained in the Schedule of Member Remuneration in Scheme Manager's Constitution.

(D) The Chairman shall be paid remuneration and expenses as determined by the Appointments Panel. The Chairman will be expected not to claim all or part of the remuneration if the duties are carried out within their normal working day of other paid employment without any reduction in pay.

### **13. Receipt of advice and information**

The Board will be supported in its role and responsibilities by the Independent Chairman and by EPF Officers who will provide a secretariat role. In addition, Board Members will receive the final reports, minutes and agendas relating to all PSB and ISC and may attend PSB and ISC meetings (including during exempt items).

Insofar as it relates to the role of the Board, the Board may also:

(A) request and receive information and reports from the PSB, ISC or any other body or officer responsible for the management of the EPF,

(B) examine decisions made or actions taken by the PSB, ISC or any other body or officer responsible for the management of the EPF,

(C) may attend all or any part of a PSB or ISC meeting (including during exempt items) unless they are asked to leave as a result of a conflict of interest.

The Secretariat will provide such information as is requested that is available without unreasonable work or costs. Any requests for information and advice that have not been provided by the Secretariat are subject to the approval of the Director for Essex Pension Fund who will be required to consider positively all reasonable requests in relation to the role of the Pension Board whilst being mindful of value for money.

### **14. ACCESS Joint Committee**

The ACCESS Joint Committee operates on the basis member authorities have a limited number of opportunities to send observers to observe those parts of the meetings of the Joint Committee which are held in private (as a statutory joint committee the public are entitled to attend unless excluded in accordance with the law). The Scheme Manager currently allows Members some of its slots to observe the meetings.

Any Member who observes an ACCESS meeting is expected to the Board at the next available meeting.

No information regarding the ACCESS Joint Committee Part 2, (exempt or confidential business), may be released outside of the ACCESS Joint Committee meeting or meeting of the Board.

## **15. Administration**

The Chairman will agree an agenda with the Secretariat prior to each Board meeting. The agenda and any papers for the Board will be issued at least 5 working days (where practicable) in advance of the meeting except in the case of matters of urgency. Draft records of each meeting including all actions, decisions and matters where the Board was unable to reach a decision will be drafted and normally circulated to all Board members within 12 working days after the meeting. These draft records will be subject to formal agreement by the Chairman taking consideration of comments by Board members (which may be done electronically between meetings).

The records of the meetings may, at the discretion of the Chairman, be edited to exclude items on the grounds that they would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A (2) of that Act.

The Board must comply with the General Data Protection Regulation and the Scheme Manager's data protection policy. It must also adhere to the Scheme Manager's requirements, controls and policies for Freedom of Information Act compliance.

## **16. Accountability**

The Board will collectively and individually be accountable to ECC, as the Scheme Manager to the EPF.

## **17. Review, Interpretation and Publication of Terms of Reference and Rules of Procedure**

These Terms of Reference and Rules of Procedure have been agreed by ECC. The Council will monitor and evaluate the operation of the Board and may review this Terms of Reference and Rules of Procedure from time to time.

These Terms of Reference and Rules of Procedure is incorporated into the Council's Constitution and published on the Council's website and may be amended by the same means as permitted for the Constitution. It will also form part of the EPF's Governance Policy and Compliance Statement which will be made available in accordance with the requirements of the LGPS Regulations.

## **18. Publication of Board information**

In accordance with the Public Service Pensions Act 2013, Essex County Council is required to publish information about the Board including:

- who the Board Members are
- representation on the Board
- the role of the Board.

In accordance with good practice, ECC may publish other information relating to the Board as considered appropriate from time to time and which may include:

- the agendas and meeting records
- training and attendance logs
- an annual report on the work of the Board.

All or some of this information may be published using the following means or other means as considered appropriate from time to time:

- on the EPF website – [www.essexpensionfund.co.uk](http://www.essexpensionfund.co.uk)
- on the ECC website – <http://www.essex.gov.uk>,
- within the EPF Annual Report and Accounts,
- within the EPF's Governance Policy and Compliance Statement.

Information may be excluded on the grounds that it would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act.

### **8.1.7 Health and Wellbeing Board**

#### **Purpose:**

The purpose of the Essex Health and Wellbeing Board (EHWB) is to play a pivotal role in all parts of Essex to enable residents to lead healthy lives in ways which extend life expectancy and minimise differences in life expectancy between places. It will do this through delivering, supporting and influencing within the complex local system addressing the wider determinants of health.

#### **Context:**

Essex comprises about one and a half million citizens with a further 350,000 in the adjoining unitary councils of Southend and Thurrock. The population is ageing with the problems of frailty, including dementia, that that brings. There are increasing numbers of people with learning and other complex disabilities maturing into and across adulthood. Accordingly, there are increasing numbers of voluntary carers who share a similar demographic profile.

While life expectancy across the county is at or slightly above the national average, there are significant differences between areas and there is a clear inverse correlation between life expectancy and deprivation. Inequalities exist at geographical level as well between different vulnerable groups. These inequalities are driven by socioeconomic factors including income, education, employment, community safety, loneliness and housing.

The characteristics associated with unhealthy lifestyles are again in line with national averages but with significant intra-county variations and excluded groups. These include levels of obesity, physical inactivity and substance misuse. Diabetes remains a growing common ailment.

Mental illness and frailty is at least in line with national averages but there are particular concerns about levels of suicide where some districts feature among the worst effected in the country.

#### **Activities of the Board:**

The Health and Wellbeing Board is a statutory committee of Essex County Council. However, ownership of delivery and issues sits with all partners.

Given the purpose and context, the HWB will:

- Commission a joint strategic needs analysis (JSNA) from time to time as required.
- Ensure comprehensive and whole-system dialogue so that the emerging Joint health and wellbeing strategy (JHWS) has common ownership and commitment.
- Optimise and oversee delivery of the JHWS.
- Ensure whole system understanding of and commitment to the health and wellbeing agenda in key areas of influence such as economic development and employment, housing and education.
- Strive for perfect communications and collaboration between all parts of the system notably ICSs, local alliances and district level Health and Wellbeing Boards.
- Operate on the principle of subsidiarity recognising that strategies initiated by the EHWPB should be limited to those which require a true pan-Essex focus.
- Promote the import of best practice from outside the county, and the sharing / adoption of best practice within the county.

- Provide a high-quality channel for dialogue with and feedback from residents and users, in line with the democratic accountability which local government brings to the system.

### **Way of Working:**

The EHWB will focus on those areas across the county where health and wellbeing have greatest impacts, or where activities have greatest impact on health and wellbeing. For instance, healthy workforces will enable competitive advantage in retaining and bringing high-quality employment to the county while areas of high unemployment will be disadvantageous to health. The Board will wish to ensure that there is optimal system impact on all key wider determinants of health be they socioeconomic, lifestyle, clinical or environment related.

The EHWB will operate flexibly, seeking to create the right means and groups to deliver particular elements of the strategy. Formal face-to-face meetings will be supplemented by informal sessions whether face-to-face or virtual. Subcommittees such as the Essex Strategic Co-ordination Group (ESCG) will exist alongside working groups and task-and-finish groups.

Wherever possible the HWB will wish work to be undertaken through existing partnerships and groups. New groups will only be established where there is not an existing group that could embrace that function. This might be because no such group exists or it would be impossible for that group to afford sufficient priority to the required action.

The ESCG will retain a key coordination and delivery function. The group also supports the Essex Partnership Board (EPB) which will help ensure aligned agendas. This will be further enhanced through a shared dedicated secretariat. The ESCG role will include to develop agendas and coordinate delivery, with membership that reflects the full HWB.

The HWB will work adopt a subsidiarity as a key principle. This will involve strong links with local Alliances and district/borough and city level Health and Wellbeing Boards. The importance of the District County Health and Wellbeing forum will be considered in this.

The Board recognises the key importance of user voice. Local resident input will be key to success with Healthwatch, VCS members and elected members – including town and parish - on the Board having a key role in facilitating the Board's access to residents.

The complexity of the Essex system is apparent to all. It is hard to fully capture the full nuances of how the Board will work alongside the new NHS focussed system architecture and some degree of permeability, tolerance and acknowledgement of overlaps will be required of members. Further work in particular will be needed to more specifically clarify operational working with the three ICPs.

### **Membership:**

- Essex County Councillors x 2 as determined by the Leader of the Council from time to time (one of who will ordinarily be Chairman of the Board and currently the Cabinet members for Adult Social Care and Children's Services)
- Essex County Council senior officers:
  - Chief Executive (or nominee)
  - Executive Director of Adult Social Care [DASS]
  - Executive Director of Children's Services [DCS]
  - Director, Wellbeing, Public Health and Communities [DPH]
- The Chair and Chief Executive from each ICB
- An officer and elected member from each of the Alliances – to be appointed by the Board on the recommendation of each Alliance and
- One representative of each the following types of provider organisations: acute hospitals, mental health, community providers– to be co-opted by the board after consulting organisations or their representatives
- Each ICB to appoint a GP representative
- Two representatives of district councils appointed by the Board after consulting district councils or their representatives
- One representative appointed by the Essex Association of Local Councils
- One representative to be nominated by Healthwatch Essex
- Essex Police, Fire and Crime Commissioner
- Essex Police Chief Constable
- Voluntary Sector x 2 – to be appointed by the Board after consulting organisations or their representatives
- Business sector representative eg from South East Local Enterprise Partnership or Chamber of Commerce – appointed by the Board
- One representative nominated by NHS England
- A person co-opted by the Board as the Chair of Essex Partnership Strategic Coordination Group

There will also be an extended associate membership of those with specific expertise on specific issues of interest to the Board, who are not formally members of the board and who do not have voting rights but who may attend as they wish. This will include:

- Representative from the universities
- A data analytics practitioner
- Safeguarding Chair

The Chairs of both the Southend HWB and the Thurrock HWB will also have a standing invitation to attend meetings as a non-voting observer.

### **8.1.8 Statutory Officer Advisory Panel**

Membership: nine members, including seven Members of the Council and two Independent Persons appointed in accordance with paragraph 22.6.1 below. Where possible the Essex County Council Independent Persons are to be invited first.

- (i) To advise the Council on the dismissal of the officers who are for the time being designated as the Head of Paid Service, the Monitoring Officer or the Section 151 Officer as set out in paragraph 22.6.1.

The Panel is an advisory committee constituted under s102(4) of the Local Government Act 1972. Accordingly, it is not an ordinary committee for the purpose of the political balance rules.

#### 8.1.9 **Boundary Review Committee**

Membership: Eight members of the Council

- (i) To make submissions to the Local Government Boundary Commission for England with respect to the current review of the ECC divisions.
- (ii) The Committee will cease to operate on the date of the annual meeting of Council in 2024.

## **Article 9**

### **Overview and Scrutiny Committees**

#### **9.1 Functions of the Overview and Scrutiny Committees**

The Council will appoint the Overview and Scrutiny Committees set out in Article 9.5 below.

In relation to the functions and responsibilities listed, and any other matter at the request of the Scrutiny Board, the Committees have power:

- (i) to review or scrutinise decisions made in connection with the discharge of Executive functions;
- (ii) to make reports or recommendations to the Council or Cabinet with respect to the discharge of Executive functions;
- (iii) to review or scrutinise decisions made in connection with the discharge of non-executive functions; and
- (iv) to make reports or recommendations to the Council or to Cabinet on matters affecting the Council's area or its citizens.

#### **9.2 Membership**

No Overview and Scrutiny Committee shall include any Member of the Cabinet.

A Deputy to a Cabinet Member may not serve on an Overview and Scrutiny Committee that scrutinises the work undertaken by that Cabinet Member.

No Member may be involved in scrutinising a decision in which he has been directly involved.

#### **9.3 Chairmen of Overview and Scrutiny Committees**

The Chairman of each Overview and Scrutiny Committee will:

- (i) provide leadership of the relevant Overview and Scrutiny Committee;
- (ii) facilitate and encourage the active involvement of all Members on the relevant Overview and Scrutiny Committee; and
- (iii) promote a consensual, apolitical approach to the Committee's activities.

#### **9.4 Roles and Responsibilities of the Overview and Scrutiny Committees**

The Overview and Scrutiny Committees, within their terms of reference, will:

- (i) engage in policy review and policy development, with a focus on improvement and how it can best be achieved;
- (ii) scrutinise decisions made, or actions taken in connection with the discharge of the Council's and the Cabinet's functions;



- (iii) scrutinise the performance of the Council and the Cabinet;
- (iv) engage with the community and encourage community engagement;
- (v) question and engage with Members of the Cabinet and/or Committees and Chief Officers;
- (vi) look outwards and show community leadership by providing constructive challenge to other public bodies particularly those with whom the Council delivers services in partnership;
- (vii) consider any matter affecting the area or its inhabitants;
- (viii) consider any matters referred by full Council or Cabinet;
- (ix) make recommendations to the Cabinet and/or Council arising from the outcome of the scrutiny process;
- (x) consider petitions as set out in the Council's Petitions Policy; and
- (xi) develop and maintain a work programme.

Where an issue relates to the work of two or more scrutiny committees the Scrutiny Board shall determine by which committee or committees it shall be reviewed.

## **9.5 The Overview and Scrutiny Committees**

Each Overview and Scrutiny Committee shall exercise the function of call-in of a decision made by a Cabinet Member which falls within its remit in order to consider whether:

- (i) to refer the decision back to the person who made it; or
- (ii) to refer the matter to the full Council to decide whether to refer the decision back to the person who made it.

### **9.5.1 Corporate Policy and Scrutiny Committee**

Membership: 14 Members

- The overall strategic direction, policies and priorities of the Cabinet and of Council.
- The Council's financial position and management of the council's finances and budgets (revenue and capital)
- Corporate Policies
- Internal and External Communications
- Customer contact centres
- Registration of Births Deaths and Marriages
- Coroners
- Matters relating to the activities of support services including:
  - Commercial/Procurement
  - Property and Facilities Management
  - Legal Services
  - Performance and Organisational Intelligence
  - Transformation
  - Internal Audit
  - Risk and insurance
  - Health and Safety

- IT
- Human Resources
- Business Support
- Democratic Services
- The Council's role as an employer
- Services which operate via a trading account
- Essex companies and other legal entities (and ECC's shareholder role)
- Democratic Engagement and Representation
- Considering the Council's governance arrangements and the management of its performance including reports about that performance

### **9.5.2 People and Families Policy and Scrutiny Committee**

Membership: 18 members (including 4 statutory co-opted members voting on education issues only)

- Education (other than skills and apprenticeships)
- Childrens' Services
- Youth Services
- Services relating to support for the community safety and the reduction of offending
- Adult social care, including the support of and assistance of people with learning or physical disabilities or sensory impairment and older people and the homeless
- Sport and physical activity including Active Essex (the Health Overview, Policy and Scrutiny Committee to be included on healthy lifestyle matters)
- Transport services relating to any of the above services.

### **9.5.3 Place Services and Economic Growth Policy and Scrutiny Committee**

Membership: 14 members

- The economy of Essex
- Economic development and regeneration
- Employment related Skills and apprenticeships
- Strategic Highways and transportation
- Heritage, Culture and the Arts
- Tourism
- Country Parks and other green assets
- Library services
- Broadband and public communications infrastructure
- Planning
- Environmental services
- Community Safety and Crime and Disorder (not Domestic Violence or Youth Offending Team)
- Emergency Planning
- Waste and recycling
- Energy and emissions reduction
- Trading standards
- Housing

- Gypsies and travellers

## **9.6 Amending the Terms of Reference**

The terms of reference of the Overview and Scrutiny Committees reflect the details of the Cabinet Portfolios. The terms of reference will be routinely updated to reflect any changes made to the Portfolios.

## **9.7 Proceedings of Overview and Scrutiny Committees**

Committees will conduct their proceedings in accordance with the Overview and Scrutiny Committee Procedure Rules contained within Part 4 of this Constitution.

## **9.8 The Scrutiny Board**

A Scrutiny Board comprising the Chairmen of the three Scrutiny Committees, the Health Overview, Policy and Scrutiny Committee and the Audit Committee and the Vice-Chairman of the Committee also chaired by the Chairman of the Scrutiny Board will oversee the Council's overview and scrutiny functions.

The Board's terms of reference are as follows:

- (i) To have overall responsibility for the direction and management of the Council's overview and scrutiny functions.
- (ii) To ensure that overview and scrutiny activity reflects the aims of the Corporate Plan and adds value to the organisation, whilst recognising that on occasion Opposition Members may not support those aims.
- (iii) To champion overview and scrutiny within the organisation and the community at large.
- (iv) To co-ordinate the work of the Overview and Scrutiny Committees.
- (v) To ensure the best use of the resources available for overview and scrutiny, including allocating membership of Committees.
- (vi) To monitor the outcomes of recommendations of Overview and Scrutiny Committees and to ensure that all such recommendations are followed up.
- (vii) To ensure that cross-cutting reviews are properly dealt with.
- (viii) To keep Council informed of the work of overview and scrutiny.
- (ix) To agree work methods and protocols for the Overview and Scrutiny Committees and to disseminate best practice.

- (x) To raise issues with Cabinet Members, the Chief Executive and Leader as appropriate.
- (xi) To raise issues with partners and outside organisations as appropriate.
- (xii) The Chairman of the Board to be responsible to the Council for the effectiveness of the Scrutiny arrangements.

## **Article 10**

### **Health Overview, Policy and Scrutiny Committee**

#### **10.1 Health Overview, Policy and Scrutiny Committee**

The Council will appoint a Health Overview, Policy and Scrutiny Committee to discharge the functions conferred on the Council by statute to review and scrutinise, and receive referrals in connection with, any matter relating to the planning, provision and operation of the health service in its area and such other matters as are identified in 10.3 below.

#### **10.2 Membership**

16 members (including up to 4 non-voting co-opted members appointed by, and at the invitation of, the Committee on the nomination of other Essex local authorities).

#### **10.3 Roles and Functions**

The Health Overview, Policy and Scrutiny Committee will have the following roles and functions:

- (i) to review and scrutinise the totality of local services planned and provided including the work of the Health and Wellbeing Board as part of their wider responsibility to seek health improvements and reduce health inequalities for their area and its inhabitants;
- (ii) to refer contested proposals for major service changes to the Secretary of State;
- (iii) to scrutinise the social care services provided or commissioned by NHS bodies exercising local authority functions under section 31 of the Health Act 1999;
- (iv) to review or scrutinise health services commissioned or delivered in the Council's area within the framework set out below:
  - (a) arrangements to secure hospital and community health services to the inhabitants of the Council's area;
  - (b) the provision of such services to those inhabitants;
  - (c) the provision of family health services, personal medical services, personal dental services, pharmacy and NHS ophthalmic services;
  - (d) the public health arrangements in the area; e.g. arrangements for the surveillance of, and response to, outbreaks of communicable disease or the provision of specialist health promotion services;
  - (e) the planning of health services, including plans made in co-operation with local authorities setting out a strategy for improving both the health

of the local population and the provision of health care to that population;  
and  
(f) the arrangements made by NHS bodies for consulting and involving patients and the public;

(v) to review and scrutinise the totality of local services including social services, planned and provided as part of their wider responsibilities to seek health improvements and reduce health inequalities; and

(vi) to act as consultee to an NHS body within the remitted area on issues of:  
(a) substantial developments of the health service in the Council's area;  
and  
(b) any proposals to make any substantial variation to the provision of such services.

#### **10.4 Proceedings of the Health Overview, Policy and Scrutiny Committee**

The Committee will conduct its proceedings in accordance with the Health Overview, Policy and Scrutiny Committee Procedure Rules contained within Part 4 of this Constitution.

#### **10.5 Outer North East London Health Overview Scrutiny Committee**

**10.5.1** The Outer North East London Joint Health Overview and Scrutiny Committee (JHOSC) is established by the Health Overview and Scrutiny Committees having health responsibilities of the London Borough Councils of Barking and Dagenham, Havering, Redbridge and Waltham Forest in accordance with section 190 – 191 of the Health and Social Care Act 2012 and consequential amendments and the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002.

**10.5.2** The terms of reference of the JHOSC are as follows:

to review and scrutinise any matter, including substantial variations, relating to the planning, provision and operation of health services that affect two or more boroughs in Outer North East London. The JHOSC will have the right to respond in its own right to all such consultations on such matters, both formal and informal.

**10.5.3** The County Council will nominate one member to the JHOSC.

## Article 11

### Joint Arrangements

#### 11.1 Arrangements to Promote Well Being

The Cabinet, in order to promote economic, social or environmental well-being, may:

- (i) enter into arrangements or agreements with any person or body;
- (ii) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (iii) exercise on behalf of that person or body any functions of that person or body.

The Cabinet will at all times in its decision making and deliberations have regard to the purpose of this Constitution as set out in Article 1 to enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations and pursue opportunities for joint working with other organisations.

#### 11.2 Joint Arrangements

- (i) The Council may establish joint arrangements with one or more local authorities and/or their cabinets to exercise functions which are not cabinet functions, in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a Joint Committee with other local authorities.
- (ii) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Executive Functions. Such arrangements may involve the appointment of Joint Committees with these other local authorities.
- (iii) Except as set out below, the Cabinet may only appoint Cabinet Members to a Joint Committee and those Members need not reflect the political composition of the Council as a whole.
- (iv) The Cabinet may appoint members to a Joint Committee from outside the Cabinet in the following circumstances.
  - (a) The Joint Committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Member who is a member for an electoral division which is wholly or partly contained within the area.
  - (b) The Joint Committee is between the Council and a single District Council and relates to functions of the Cabinet. In such cases, the

Cabinet may appoint to the Joint Committee any Member who is a member for an electoral division which is wholly or partly contained within the area.

In both these cases the political balance requirements do not apply to such appointments.

- (v) Details of any joint arrangements including any delegations to Joint Committees will be found in the Council's Scheme of Delegations contained in Part 3 of this Constitution.

### **11.3 Access to Information**

The Access to Information Procedure Rules contained within Part 4 of this Constitution apply.

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 Cabinet.

If the Joint Committee contains Members who are not on the Cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

### **11.4 Delegation to and from Other Local Authorities**

The Council may delegate its functions to another local authority, or in certain circumstances, the Cabinet of another local authority.

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

The decision whether or not to accept such a delegation from another local authority shall be reserved to the full Council.

### **11.5 Contracting Out**

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



## Article 12

### Finance, Contracts and Legal Matters

#### 12.1 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations contained within the Code of Corporate Governance.

#### 12.2 Contracts

**12.2.1** This paragraph contains the Council's statutory standing orders about the making of contracts in accordance with section 135 of the Local Government Act 1972.

**12.2.2** All those undertaking procurement activity for or on behalf of the Council are required to act in the best interests of the Council and with high standards of probity.

**12.2.3** The Chief Financial Officer must from time to time issue Procurement Rules which shall be published on the Council's website. All contracts being entered into by the Council must comply with the Council's Procurement Rules.

**12.2.4** The Procurement Rules must specify:

- (a) that there is no requirement to secure competition in contracts whose total value is below a value prescribed in the Procurement Rules ("the low value");
- (b) that contracts with a value which exceeds the low value but does not exceed the high value prescribed in the Procurement Rules ("the high value") shall be exposed to competition by means of inviting competitive quotations;
- (c) that contracts with a value which exceeds the high value but which do not exceed the threshold in (d) below shall be let following public notice which invites competitive tenders and requiring that any tenders received are required to be kept unopened in a secure location until the expiry of the deadline for the receipt of tenders;
- (d) that contracts with a value which exceeds the relevant threshold prescribed in accordance with the relevant public procurement directive made by the European Union are required to be awarded in a manner which complies with those rules;
- (e) the circumstances in which the Council is permitted to purchase via a framework agreement; and
- (f) that in addition to the exemptions from competition permitted under the preceding provisions of these Standing Orders, the Chief Finance Officer or another officer authorised by him may grant a waiver from any requirement in these Standing Orders or in the Procurement Rules if he considers that the exemption is justified by special circumstances.

**12.2.5** The Procurement Rules may also specify such further rules as the Chief Finance Officer may require.

(\*This limit will change from time-to-time but at the time of going to print the low value is £4,000 and the high value is £50,000.)

**12.2.6** The Chief Finance Officer may from time to time supplement Procurement Rules by providing guidance on best practice on the subject of procurement.

### **12.3 Legal Proceedings**

The Monitoring Officer and the Director, Legal and Assurance are authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Monitoring Officer or the Director, Legal and Assurance consider that such action is necessary to protect the Council's interests.

### **12.4 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 Monitoring Officer or the Director, Legal and assurance or some other person authorised by him, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £1,000,000 entered into on behalf of the local authority in the course or the discharge of an Executive Function shall be made in writing. Such contracts must either be signed by the Chief Executive or a direct report of the Chief Executive (Tier 1 Officers) of the authority or made under the Common Seal of the Council attested by at least one officer.

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

The Monitoring Officer may from time to time adopt such means of sealing as from time to time considered appropriate after consulting the Chairman. This may include allowing electronic sealing in accordance with section 7A(1) of the Electronic Communications Act 2000. Affixing of an electronic seal approved in this way shall be of the same legal effect as affixing the Common Seal of the Council.

The Common Seal will be kept in a safe place in the custody of the Chairman of the Council.

A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

The Common Seal will be affixed to documents which in the opinion of the Monitoring Officer or the Director, Legal and Assurance should be sealed.

The affixing of the Common Seal will be attested by or affixed and attested by the Monitoring Officer or the Director, Legal and Assurance or some other person authorised by either of them, or by the Chairman or in his absence the Vice-Chairman or in his absence a past Chairman of the Council.

## **Part 3**

# **Responsibility for Functions**

## Part 3

### 13. Responsibility for Functions

#### 13.1 Introduction

Section 13 of the Local Government Act 2000 provides that all functions of the Authority shall be functions of the Cabinet except in so far as they are reserved to the Council by any other enactment or by Regulations made under the Local Government Act 2000.

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 define those functions as reserved to Council as those:

- (i) which must not be discharged by the Cabinet;
- (ii) which may be the responsibility of the Cabinet;
- (iii) which may not be the sole responsibility of the Cabinet.

Only the Council has the discretion to decide which functions fall into (ii) and (iii) above.

It follows that the functions of the Council are either:

- (i) the responsibility of the Council, (a Council Function); or
- (ii) the responsibility of the Cabinet, (an Executive Function); or
- (iii) a Local Choice Function, which is a function where the Council is free to choose whether responsibility rests with either Council or Cabinet.

#### 13.2 Council Functions

“Council Functions” are therefore;

- (i) those functions which are reserved as a Council Function by the Local Government Act 2000 and by subsequent enactments and regulations;
- (ii) those functions which are reserved as Council Functions by Regulation 2 of, and Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and subsequent regulations made under the Local Government Act 2000;
- (iii) those functions set out in Regulation 3 of, and Schedule 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, unless otherwise stipulated; and
- (iv) the plans and strategies, the adoption or approval of which shall be a Council Function (the “Policy Framework”), namely those plans and strategies set out in Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 together with such other plans and strategies as the Council may identify from time to time for this purpose.

The Council has determined that certain Council Functions shall be carried out by the Committees as set out in Article 8 of this Constitution.

The ACCESS Pension Fund Pool Joint Governance Committee will exercise council functions in accordance with the terms of the delegations granted to it by full Council from time to time'

The Colchester Tendring Borders Joint Committee, whose constitution and terms of reference is at appendix 5 will exercise council functions in accordance with the terms of the delegations granted to it by full Council from time to time.

### **13.3 Executive Functions**

"Executive Functions" are therefore:

- (i) those functions stipulated as an Executive Function by the Local Government Act 2000 and by subsequent enactments and regulations; and
- (ii) all other functions shall be Council Functions.

Part 3 of this Constitution describes which functions are the responsibility of the Council and/or its committees or sub-committees, and which functions are the responsibility of the Cabinet and/or its committees or sub-committees or individual Members of Cabinet. It also sets out those functions that have been delegated to officers.

The following joint committees exercise Executive Functions in accordance with their terms of reference as set out in Appendix 5 and the agreements currently in operation:

- the South Essex Parking Partnership Joint Committee
- the North Essex Parking Partnership Joint Committee
- the Essex Countywide Traveller Unit Joint Committee
- the South East Local Enterprise Partnership Accountability Board
- Association of South Essex Local Authorities Joint Committee

The following partnership will exercise executive functions in accordance with the terms of the agreement currently in operation, namely the Civil Protection and Emergency Management Partnership.

### **13.4 Local Choice Functions**

The Executive is responsible for exercising the following Local Choice Functions in accordance with arrangements made by the Leader:

- (i) the conducting of best value reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999;

- (ii) the appointment of any individual:
  - (a) to any office other than an office in which he is employed by the authority;
  - (b) to any body other than:
    - (1) the authority;
    - (2) a joint Committee of two or more authorities;
    - (3) a politically balanced body; or
    - (4) to any Committee or Sub-Committee of such a body;

and the revocation of any such appointment;

any such appointments must be notified for information to the Council;  
and

- (iii) the making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.

The Council is responsible for all other Local Choice Functions.

## **14. Scheme of Delegations to Cabinet Members**

### **14.1 Delegations**

The delegations to officers in respect of the functions of the Cabinet are set out in paragraph 15 below.

### **14.2 Functions Reserved to Cabinet**

Any Executive decision which will result in a recommendation or proposal to Full Council shall only be taken by the Cabinet as a whole and may not be taken by an individual Cabinet Member or Officer.

Any decision falling within any of the following categories shall be taken by the Cabinet as a whole and may not be taken by an individual Cabinet Member, a Cabinet Committee or an Officer or under joint arrangements unless it is delegated to that Cabinet Member, Committee, Officer or under joint arrangements after consideration by the Cabinet:

- (i) a decision on a matter which is cross cutting and affects the area of responsibility of more than one Cabinet Member, unless the decision falls within an area of responsibility of a Cabinet Member which is itself cross-cutting in which case the decision can be taken by the Cabinet Member concerned; or
- (ii) a decision that the Leader has decided should be referred to Full Council.

### **14.3 General principles**

This scheme delegates powers and duties in relation to Executive Functions and Local Choice Functions which are the responsibility of the Cabinet to Cabinet Members.

This scheme delegates powers and duties within broad functional descriptions and includes powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation as well as authorising the affixing of the Common Seal.

This scheme operates under Section 14 of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and all other powers enabling.

#### **14.4 General limitations**

Before taking a decision, a Cabinet Member shall receive advice from the appropriate officer and must take advice from the Monitoring Officer and Chief Finance Officer (Section 151 Officer).

Any exercise of delegated powers shall be subject to the Policy Framework approved by the Council or the policies approved by the Cabinet from time to time including the Employment Policies (and Disciplinary Procedures), Equal Opportunities, Service Delivery Policies, and shall be guided by the relevant Codes of Conduct.

Any exercise of delegated powers shall be subject to:

- (i) any statutory restrictions;
- (ii) the Standing Orders of the Council;
- (iii) Financial Regulations; and
- (iv) Procurement Procedure Rules;

as contained within Part 4 of the Constitution and within the Code of Corporate Governance.

In exercising delegated powers, Cabinet Members shall not go beyond the provision made in the revenue or capital budgets for their service except to the extent permitted by Financial Regulations and Procurement Procedure Rules contained within the Code of Corporate Governance.

Delegation of Executive Functions to a Cabinet Member does not include the functions reserved to Full Council contained in Article 6 of the Constitution, or the functions reserved to Cabinet contained in Article 7 of the Constitution.

#### **14.5 Further provisions**

All action taken under the terms of these delegations shall be properly documented in accordance with arrangements approved by the Monitoring Officer.

This scheme operates from 14 May 2013.



In each case the delegated authority excludes the determination of policy, exceptions to policy and budgets by the Cabinet\_Member concerned.

Cabinet Members shall consult their Cabinet colleagues on all strategically important issues.

## **14.6 Portfolios of Individual Cabinet Members**

Members appointed to the Cabinet will lead for the Cabinet in the areas shown and will exercise the functions delegated to them by the Leader. The roles encompass relations with external partners unless other provision is explicitly made.

These responsibilities are in addition to those set out in Article 3 and Article 7 of this Constitution.

### **14.6.1 Leader of the Council**

The overall strategic direction, policies and priorities of the Cabinet and of Council, including the overall corporate revenue and capital budget strategy of the Authority

- To appoint Council representatives on key external bodies such as the Health and Wellbeing Board, the South East Local Enterprise Partnership and the Essex Partnership Board.
- Liaison with HM Government, Essex MPs and district, city, borough, parish and town councils
- To act as shareholder to Essex companies and other legal entities
- The functions of other portfolio holders in their absence or in an emergency or in any other circumstances where the Leader thinks it is desirable to act on any matter
- Policy, Strategy, Internal and External Communications, Marketing and Public Affairs
- Devolution
- Asylum seekers and refugees

### **14.6.2 Deputy Leader, Communities, Economic Growth and Prosperity**

- Levelling up
- Economic Strategy, Investment and Strategic Business Engagement

- Greater Essex Business Board
- Garden Community related infrastructure, HIF projects and Army and Navy
- Business Growth, Sector Development and Innovation
- Inward Investment
- Digital Infrastructure, Digital Strategy and Digital inclusion
- Freeports
- Economic Partnerships
- Community Leadership, Engagement, Resilience and Safety - including Prevent
- Community Strategy
- Voluntary and Community Sector Relations
- Overview of Grants
- Community Initiatives Fund
- Active Essex
- Sport and physical activity
- Business planning
- Strategic Partnerships

#### **14.6.3 Children's Services, Adult Social Care, Public Health, and Integration**

- Adult social care, including the support of and assistance of people with learning or physical disabilities or sensory impairment and older people and the homeless.
- Adult Social Care Service Transformation
- Care homes
- Safeguarding vulnerable adults
- Joint commissioning and joint contracting
- Support to Carers, including young carers

- Health system reform, integration and partnerships
- Health Improvement and Protection
- Health Inequality Reduction
- Public Health
- Mental health services
- Child health-related matters
- Drug and Alcohol Action Team
- Adults and Health Capital Programmes
- Children's social care, including, but not limited to: the safeguarding of children; looked after children; services to vulnerable children and young people and their families; and adoption and fostering
- Statutory lead member for children's services
- Preventative services, including early intervention and the development of services for families with complex needs
- Family solutions
- Commissioned children's services, including family hubs
- Child and Adolescent Mental Health Services (CAMHS)
- Domestic Abuse
- Youth offending
- Young Carers

#### **14.6.4 The Chancellor of Essex (Cabinet Member with Responsibility for Finance)**

- Treasury management, Funding and Investment
- Financial management and reporting
- Procurement
- Commercial Property portfolio
- Insurance

- Supplier Relationship and Contract Management
- Income and Revenues Optimisation
- Traded Services
- Pension Fund
- ECC Business Support
- Customer Services
- Legal Services

#### **14.6.5 Education Excellence, Life Long Learning and Employability**

- Mainstream schools and education including: diversity, organisation, planning and admissions; standards and achievement; attendance; 14-19 provision; transport for educational purposes; behaviour and education welfare services
- Special Schools
- Special Education Needs provision, including specialist and complex services in mainstream schools
- School improvement
- Alternative Provision
- Raising the Participation Age
- Careers advice
- School crossing patrols
- Education Capital Programmes
- School Admissions and Transport Awards
- Post 16 skills and apprenticeships
- Support to businesses
- Adult Community Learning
- Employability and Skills
- Universities

- Early Years and pre-school

#### **14.6.6 Climate Czar, Environment, Waste Reduction and Recycling**

- Climate change action
- Energy and Emissions reduction
- Green Infrastructure
- Natural Environment
- Waste minimisation, disposal and recycling
- Integrated Waste Management
- Waste Strategy
- Waste Programme Delivery

#### **14.6.7 Transformation**

- Whole Council Transformation
- Lead member for armed forces liaison and engagement (military covenant)
- Property Strategy (including acquisition and disposal)
- Facilities Management
- Project and Programme Management
- HR
- ECC Continuous Improvement and Design
- Service Design
- Emergency Planning and Resilience
- Telephone and Digital Access
- User Experience
- Technology Services
- Performance Management

- ECC Business Intelligence
- Corporate Governance
- Risk Management
- Internal audit and Counter Fraud
- Research, Development and Innovation
- Health and Safety
- Insurance
- Information Governance
- Democratic engagement and representation
- Democratic Services

#### **14.6.8 The Arts, Heritage and Culture**

- Libraries and Community Hubs
- Registration services
- Coroner
- Heritage, Culture and the Arts
- Essex Records Office
- Gypsy and Travellers
- Trading Standards
- Country Parks and Green Spaces (including Cressing Temple and Hadleigh Country Park)
- Country Parks off-street parking places at
- Essex Outdoors
- Rural Affairs
- Tourism
- Marketing Essex and Place Promotion
- Youth services

- Equalities and Diversity
- Faith Covenant

#### **14.6.9 Highways, Infrastructure and Sustainable Transport**

- Rail Strategy and Community Rail
- Park and Ride
- Network Management
- Traffic Regulation
- Cycling
- Walking
- Street lighting
- Public rights of way (bridleways, footpaths and byways)
- Road safety
- Maintenance of highways
- Highways Maintenance capital programme
- Local Highways Panels
- Parking Partnerships
- Infrastructure Commissioning and Delivery
- Integrated Transport
- Sustainable Transport Policy
- Active travel
- E-Scooters
- Travel Planning
- Flood Management
- Flooding
- SUDS
- Passenger Transport, including buses and concessionary fares

- Home to School Transport

#### **14.6.10 Housing, Planning and Regeneration**

- Town Centre Regeneration
- Strategic spatial planning, including responses to local plans
- Commons Registration and village greens
- Development Management – Strategic Development
- Airports
- Ports
- Minerals & Waste Planning
- Housing Strategy & Growth
- Housing development and investment (Essex Housing)
- Garden Communities
- Built Environment and Historic Environment
- Ride London



## **15. Scheme of Delegation to Officers**

### **15.1.1 General Principles**

This scheme, which has been agreed by the full Council and by the Leader of the Council, authorises officers of the Council to take decisions about the exercise of the Council's statutory functions.

The Council wants its officers to be empowered to manage the services entrusted to them. This scheme is intended to be interpreted broadly.

This scheme applies to all of the Council's powers and duties derived from legislation or otherwise and all incidental powers and duties.

Executive Functions are delegated by the Leader under section 9J of the Local Government Act 2000 (as amended). References to 'the Regulations' are references to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

Officers identified in this document as exercising delegated powers will be politically restricted under s2(1)(g) of the Local Government and Housing Act 1989.

Executive Decisions taken by officers must be recorded as required by law.

In exercising any delegated powers, officers are expected to undertake appropriate consultation with other members and officers and shall have regard to any advice given.

An Officer may choose not to take a decision if they feel it is not appropriate for them to make a decision and may refer a matter to the Cabinet Member or to the appropriate committee for a decision.

Officers taking decisions are required to keep Members (including local members) properly informed about relevant decisions.

### **15.1.2 Who can take decisions under this scheme of delegations**

The primary delegated officers are listed in paragraph 15.3 below. In addition, this Scheme of Delegation also allows any other officer of the Council to exercise delegated powers if they have been authorised to do so by any officer listed in 15.3.

- Authorisations can be general or specific in terms of the powers delegated and the officers to which the authorisation applies.
- Authorisations are subject to any restrictions and limits set out in the authorisation.
- Authorisations cannot allow anyone other than the Chief Executive or an Executive Director to:

- make a decision with financial implications of more than £500,000; or
- make a decision which the authorising officer could not make.
- Authorisations must be recorded in a register maintained by the Monitoring Officer.

### **15.1.3 Decisions with financial implications of over £500,000**

This scheme does not authorise anyone other than the Chief Executive or an Executive Director to take a decision on executive functions with financial implications which exceed £500,000. Where an Officer with delegated powers takes a decision with financial implications which exceed £500,000 the decision may only be taken after the officer has:

- considered a written report
- consulted the relevant Cabinet Member or in the absence of the relevant Cabinet Member, the Leader.

As soon as practicable after the decision has been taken the report and the decision must be:

- published on the Council's website; and
- circulated to the relevant overview and scrutiny committee.

Nothing in this paragraph requires anything to be published if it includes exempt or confidential information.

### **15.1.4 Limit on delegations**

- (a) Officers may not take decisions on executive functions if the proposed decision is contrary to the Policy Framework approved by full Council. Any proposal to take a decision contrary to the Policy Framework must be the subject of a report to Cabinet who will make a recommendation to full Council.
- (b) Any exercise of delegated powers must comply with:
  - (i) any restrictions contained in the law;
  - (ii) the Constitution (including standing orders, procurement rules and financial regulations).
- (c) Officers may not take delegated decisions unless adequate budgetary provision has been made for the likely financial consequences of the decision.
- (d) Except as otherwise stated in the scheme of delegation, no officer may take a Key Decision (see paragraph 15.3.1(iii) for the Chief Executive's power to make key decisions)
- (e) Other than as set out below, this scheme does not authorise officers to change fees, charges or concession policies:

- (i) officers may apply inflationary increases to fees, charges and concession policies;
  - (ii) officers may determine fees for one off events or activities;
  - (iii) officers may determine the fees to be charged to other public bodies for services which the Council provides on a commercial or full-cost recovery basis;
- (f) This scheme does not authorise the making of a compulsory purchase order.
- (g) This scheme does not authorise the acquisition of an interest in land in anticipation of future requirements.
- (h) Unless otherwise stated, this scheme does not authorise the confirmation of any order or grant of any permission, consent or licence or other determination where any response is received expressing opposition to the proposed course of action.
- (i) Nothing in this Scheme of delegation authorises any officer of the Council who is not a permanent employee to make any decision with financial implications in excess of £500,000.
- (j) Decisions taken by Officers must comply with such procedural or other requirements as may from time to time be prescribed by the Section 151 Officer or the Monitoring Officer.
- (k) Nothing in this Scheme of Delegation allows any officer to make the decision to appoint or dismiss a chief officer or deputy chief officer other than
- (i) to make a temporary or interim appointment of a deputy chief officer for up to one year (with any decision to re-appoint or extend a temporary post beyond a year being referred to the Senior Management Employment Committee);
  - (ii) to dismiss a person appointed under (i) or
  - (iii) to make decisions relating to a Head of Service reporting to a Director.
- (l) Any proposal for an officer to make a temporary or interim appointment of a deputy chief officer in accordance with (k) must be notified to the Leader and the decision referred to the Senior Management Employment Committee if the Leader so requires.
- (m) Nothing in this Scheme of Delegation allows any officer to make any decision about the pay or any other remuneration of a chief officer or deputy chief officer other than one falling under (k), other than to adjust their pay to the assessed 'rate for the job' for their pay grade.
- (n) Nothing in this Scheme of Delegation allows any officer to alter any aspect of pay grades A or B.

- (o) Nothing in this scheme of delegations authorises any decision to be taken to do any of the following without first consulting both the Section 151 Officer and the Monitoring Officer (or their nominee):
  - (i) Changing the management structure of the council
  - (ii) Making a decision which will affect the pay of more than one employee or contractor.
  - (iii) Adopting any policy or plan relating to the exercise of the Council's functions as employer.

## **15.2 General Delegations**

All officers listed in paragraph 15.3 have delegated authority to exercise any of the Council's functions and powers so far as it is necessary or conducive to do so in order to provide any service for which they have from time to time been given management responsibility. This includes, but is not limited to:

- (i) managing the human and material resources made available for the services they manage and the authority, in accordance with the Council's policies on pay and recruitment;
- (ii) entering into contracts;
- (iii) implementing a policy or decision previously approved or taken by the full Council, a committee, the Cabinet or a Cabinet Member;
- (iv) doing anything to facilitate or which is incidental to the implementation of such a policy or decision;
- (v) taking enforcement action, serving any notice or making any order;
- (vi) authorising other officers to take any other steps necessary for or conducive to the performance of any such powers; or
- (vii) exercising discretion as to the institution of legal proceedings.

## **15.3 Specific Delegations**

In addition to the general delegations the officers specified in this scheme have the following specific delegations.

### **15.3.1 To the Chief Executive**

- (i) To act as head of the paid service for the purposes of section 4 of the Local Government and Housing Act 1989 and to make any decision which the Council may make as employer.
- (ii) To determine and publish the management structure of the Council.

- (iii) To take key decisions where a decision is urgent and neither the Leader nor the Deputy Leader is available.
- (iv) To incur expenditure in the event of a civil emergency.
- (v) To exercise in case of urgency the functions delegated to anyone under this scheme of delegation (but this does not authorise the Chief Executive to discharge the personal responsibility of the Chief Finance Officer under section 151 of the Local Government Act 1972 or the Monitoring Officer under section 5 of the Local Government and Housing Act 1989).
- (vi) To determine the level of performance pay to be awarded to officers and recommend levels of performance pay to be awarded to Executive Directors.
- (vii) To exercise the Council's functions relating to publication of material and relations with the press.
- (viii) To exercise the Council's powers to trade and to make any decision which the Council may make as a shareholder in any company.
- (ix) To develop strategies for trading and commercial activities to be undertaken by or on behalf of the Council.
- (x) To be responsible for:
  - a. Democracy Team
  - b. Emergency Planning and Resilience
  - c. Health and Safety
  - d. Legal Services
  - e. Information Governance

### **15.3.2 To the Executive Director, Children and Families**

- (i) To be the statutory director of children's services and to exercise the functions designated in section 18 of the Children Act 2004 and associated regulations.
- (ii) To exercise the Council's functions relating to Children's Social Care.
- (iii) To exercise the Council's functions relating to the Youth Offending service.
- (iv) To exercise the Council's functions relating to the health of children.
- (v) To exercise the Council's functions relating to education and training.
- (vi) To make decisions on the licensing of the employment of children.

### **15.3.3 To the Executive Director, People, Policy, Economy, and Public Health**

- (i) To exercise the Council's functions relating to the economic development of Essex and its residents.
- (ii) To exercise the Council's powers with respect to regulatory services and licensing and decisions in connection with permits, regulations, permissions or certificates.
- (iii) To exercise the Council's functions as a local planning authority except for:
  - (a) approval of planning applications where objections are raised by other Local Authorities or where there are more than two individual representations raising planning related objections;
  - (b) approval of planning applications where it has been determined that an environmental impact assessment is required;
  - (c) approval of planning applications where there are objections and the Chairman of the Development and Regulation Committee determines, in consultation with the Chief Planning Officer, that the application should be determined by the Committee; and
  - (d) approval of planning applications which amount to a significant departure from the development Plan.
- (iv) To exercise the Council's powers with respect to property and facilities management.
- (v) To exercise the Council's powers with respect to towns and village greens.
- (vi) To exercise the Council's functions relating to employment policies and practice.
- (vii) To exercise such of the Chief Executive's functions relating to the Council's role as employer as the Chief Executive may agree.
- (viii) To manage the payroll service.

### **15.3.4 To the Executive Director, Climate, Environment and Customer Services**

- (i) To exercise the Council's functions relating to the promotion of tourism.
- (ii) To exercise the Council's functions relating to highways, transportation and traffic other than determination of applications or proposals for modification of the definitive map and statement of public rights of way.
- (iii) To exercise the Council's functions relating to recycling and the disposal of waste.

- (iv) To exercise the Council's functions relating to improving the environmental performance and wellbeing of Essex including flood management.
- (v) To exercise the Council's functions relating to
  - (a) Registration of Births, Deaths and Marriages
  - (b) The Coroner's Service

### **15.3.5 To the Director, Well-being, Public Health and Communities**

- (i) To exercise the Council's functions relating to sport and physical activity.
- (ii) To exercise the Council's functions as a trading standards (weights and measures) authority, as a health and safety enforcement authority, as a food authority, all powers to protect animal health and welfare and all regulatory services relating to the protection of consumers and regulation of businesses.
- (iii) To exercise the Council's functions relating to unlawful encampments.
- (iv) To exercise the Council's functions relating to the prevention and reduction of crime and disorder.
- (v) To exercise the Council's powers to take steps to improve the health of the public and exercise powers under public health legislation.

### **15.3.6 To the Director, Finance**

- (i) To act as the Council's officer appointed under section 151 of the Local Government Act 1972 and to make such decisions as are necessary for the proper administration of the Council's financial affairs.
- (ii) To be responsible for:
  - a. all financial management including treasury management and income collection
  - b. external funding
  - c. providing advice and proposing recommendations to the Pension Strategy Board, Investment Steering Committee and the Director for Essex Pension Fund, and to appoint Essex County Council's officers to the ACCESS Officer Working Group as and when required.

Note: The Director, Finance is not empowered to change the managers of the Pension Fund or, unless the Chief Executive agrees, to agree the early termination of the employment of any Executive Director or the Monitoring Officer.

- (iii) To exercise the functions of the Council in relation to the pay and conditions of directly-employed teachers who are subject to the School Teachers Pay and Conditions.
- (iv) To act as the Accountable Body representative on all matters in respect of which the Council has agreed to act as or has been appointed as Accountable Body (including the South East Local Enterprise Partnership).
- (v) To authorise the making and issue of any formal documents and to authenticate documents on behalf of the Council.
- (vi) To decide how technology is provided and used by the Council.
- (vii) To the Proper Officer under S151 of the Local Government Act 1972

### **15.3.7 To the Executive Director, Adult Social Care**

- (i) To exercise the Council's social services functions relating to adults.
- (ii) To exercise the Council's powers and duties to people who lack the mental capacity to make some decisions themselves.
- (iii) To exercise the Council's powers relating to community wellbeing and joint working with the NHS.

### **15.3.8 To the Director, Legal and Assurance**

- (i) To authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal including the making of appeals, but they shall consult the relevant Director and the Executive Director, People, Policy, Economy and Public Health before settlement of employment tribunal proceedings.
- (ii) To authorise officers of the Council to appear in courts or tribunals where permitted by law.
- (iii) To authorise the giving of any indemnity by the Council.
- (iv) To authorise the making and issue of any formal documents and to authenticate documents on behalf of the Council and to determine whether a document should be sealed by the affixing of the Common Seal.
- (v) To attest the affixing of the Council's Common Seal and to appoint others to do so.



- (vi) To exercise the Council's powers and duties to make arrangements with respect to appeals against decisions to expel or to refuse to admit someone to any school.
- (vii) To discharge the functions of the Council with respect to the pensions complaints procedure.
- (viii) To take any step to collect any debt owed to the Council.
- (ix) To determine applications and proposals for modification of the Definitive Map and Statement of Public Rights of Way pursuant to Sections 53, 53A or 55 of the Wildlife and Countryside Act 1981.
- (x) To determine applications and proposals concerning the registration of commons or town or village greens.
- (xi) To act as a Deputy in respect of the management of the finance and property of an individual lacking capacity in accordance with the Mental Capacity Act 2005.
- (xii) The power to determine whether any particular claim for payment under the Members Allowances Scheme is in order.
- (xiii) To change the membership of any committee, substitute or appointment to an outside body in accordance with wishes expressed by the Leader of a political group.

PROVIDED THAT use of this delegated power authorises amendments of Members' appointments to committees that are recommended subsequent to the Annual Meeting of Council.

- (xiv) To amend the list of approved bodies at appendix 3 to part 26 of the constitution after consulting the Leader and the Chairman of the Council.

PROVIDED THAT any use of this delegated power shall be reported to the next Annual Meeting of Council.

- (xv) To have responsibility for and to determine any matter relating to elections.
- (xvi) To be responsible for the Council's Democratic, Governance and Assurance Framework, including democratic support, scrutiny, performance, audit, risk, health and safety, business, continuity and insurance and its powers to prevent and detect fraud.
- (xvii) To act as a Deputy in respect of the management of the finance and property of an individual lacking capacity in accordance with the Mental Capacity Act 2005.

### **15.3.9 To the Monitoring Officer**

- (i) To authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal including the making of appeals, but they shall consult the relevant Director and the Executive Director, People, Policy, Economy and Public Health before settlement of employment tribunal proceedings.
- (ii) To authorise officers of the Council to appear before Magistrates' Courts or District Judges.
- (iii) To authenticate documents on behalf of the Council.
- (iv) To determine whether a document should be sealed by the affixing of the Common Seal.
- (v) To attest the affixing of the Council's Common Seal and to authorise others to do so.
- (vi) To be the Proper Officer of the Council for the purposes of the Local Government Act 1972 and the Local Government Act 2000, or for any other purpose, unless the constitution names another officer.
- (vii) Following consultation with the Council's Independent Persons, to appoint substitute Independent Persons to the Statutory Officer Advisory Panel where the Essex County Council-appointed Independent Persons are unable to act. If the Monitoring Officer is unable to discharge this delegation personally, this delegation may be exercised by the Section 151 Officer.
- (viii) To be the Proper Officer to receive and manage the determination of complaints of failure by Members to comply with the Code of Conduct and to advise the Audit, Governance and Standards Committee and Sub-Committee thereon.
- (ix) To investigate complaints against councillors or to arrange for such an investigation to be carried out or to seek a decision from the Audit, Governance and Standards Committee on whether to investigate and to notify.
- (x) To determine that no further action be taken following a finding that there has been no breach of the Code, subject to consulting an Independent Person.
- (xi) To grant applications for dispensations to members with respect to their or their spouse's interest which arises as a result of membership of another public body.

- (xii) To grant dispensations under the Code of Conduct or the Localism Act 2011 after consulting an Independent Person and the Chairman of the Audit, Governance and Standards Committee.

#### **15.3.10 To the Director, Essex Pension Fund**

- (i) To be responsible for the day to day operational management of Essex Pension Fund matters including ensuring arrangements for investment of assets and administration of contributions and benefits, excluding matters delegated to the Pension Strategy Board or Investment Steering Committee.
- (ii) To agree the terms and payment of bulk transfers to and from the Essex Pension Fund.
- (iii) To decide any other Pension Fund related urgent matter, that might otherwise be considered by the Pension Strategy Board or Investment Steering Committee, after consultation with the Chairman of the Pension Strategy Board.

Note: The Director, Essex Pension Fund is not empowered to change the managers of the Pension Fund.

## **Part 4**

# **Procedure Rules**

## **16. Standing Orders of the Council**

### **16.1 Annual Meeting of the Council**

The Annual meeting of the Council shall be held:

- (i) in a year in which there are ordinary elections of Members to the Council, on a Tuesday fixed by the Council within the twenty-one day period which commences on the day after the day of retirement of Council Members; and
- (ii) in any other year, on the Tuesday following the second Thursday in May.

In addition to the Annual meeting of the Council and any meetings convened under paragraph 16.2, four meetings for the transaction of general business shall normally be held in July, October, December and February each year. In the year of election of Members of the Council an additional meeting may be held, on such date as the Council may determine.

All meetings of the Council shall be held at Chelmsford and shall commence at 10 am.

The Chairman, in his discretion, may alter the place or time of commencement or ending of any meeting.

### **16.2 Extraordinary meetings of the Council**

#### **16.2.1 Calling Extraordinary meetings**

Those listed below may request the Chief Executive to call an Extraordinary Council meeting in addition to Ordinary meetings:

- (i) the Chairman of the Council;
- (ii) the Council - by resolution;
- (iii) the Monitoring Officer in circumstances where a report under Section 5 of the Local Government Act 1989 is to be presented; and
- (iv) any five Members of the Council if they have signed a requisition presented to the Chairman of the Council and he has refused to request a meeting or has failed to call a meeting within seven clear working days of the presentation of the requisition.

#### **16.2.2 Restriction on business at Extraordinary meetings**

The only business to be conducted at an Extraordinary meeting of the Council shall be the business specified in the summons for the meeting.

### **16.3 Chairman of meeting**

Any power of the Chairman in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

### **16.4 Interpretation of the Standing Orders**

The ruling of the Chairman at any meeting of the Council, as to the construction or application of any of these Standing Orders, or as to the proceedings of the Council, shall be final and shall not be challenged.

### **16.5 Quorum**

The quorum for any meeting of the Council is one quarter of the number of members of the Council.

If during any meeting of the Council the Chairman after counting the number of Members present declares that there is not a quorum present, the meeting shall stand adjourned.

The consideration of any business not transacted shall be adjourned to a time to be fixed by the Chairman at the time the meeting is adjourned, or, if he does not fix a time, to the next Ordinary meeting of the Council.

### **16.6 Minutes**

The minutes of each meeting shall be considered at the next ordinary meeting of the Council.

The Chairman shall put the question that the minutes of the meeting of the Council be approved as a correct record.

No discussion shall take place upon the minutes, except upon their accuracy. Any question of their accuracy shall be raised by motion proposing that the minutes be amended in a particular way. If no such question is raised, or if it is raised then as soon as it has been disposed of, the Chairman shall sign the minutes.

Where a meeting is called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (extraordinary meetings), the next following meeting of the Council, being a meeting called otherwise than under that paragraph, shall be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) (signing of minutes) of that Schedule.

### **16.7 Order of business**

#### **16.7.1 Order of business at Ordinary meetings of the Council**

Except as otherwise provided below, the order of business at every Ordinary meeting of the Council shall be:

- (i) to choose a person to preside if the Chairman and Vice-Chairman be absent;
- (ii) to deal with any business required by statute to be done before any other business;
- (iii) to approve as a correct record and sign the minutes of the last meeting of the Council;
- (iv) to deal with questions from members of the public in accordance with paragraph 16.12.4;
- (v) to receive Chairman's announcements and communications;
- (vi) to receive petitions presented by a Member of the Council;
- (vii) to deal with any business expressly required by statute to be done at that meeting;
- (viii) to receive from the Leader of the Council or a Cabinet Member an Executive Statement on a current issue of importance that cannot be covered elsewhere as part of the usual business;
- (ix) to consider motions of which notice has been given under paragraph 16.8.2 below (other than at the meeting to determine the Council's budget);
- (x) to receive a report on any petition required to be debated in accordance with the Council's Petition Policy;
- (xi) to consider a report of matters reserved to the Council ('Council Issues');
- (xii) to receive a report of business considered by the Cabinet;
- (xiii) to receive and consider reports and recommendations of committees, as required;
- (xiv) to receive and consider any other reports;
- (xv) to deal with questions submitted in accordance with paragraph 16.12 below; and
- (xvi) to consider other business, if any, specified in the summons.

The order of business at any meeting of the Council (other than business falling under items (i), (ii) and (iii) above) may be varied by the Chairman.

## **16.7.2 Order of business at the Annual Meeting**

At its annual meeting, the Council, in addition to business considered at an ordinary meeting, shall:

- (i) elect a Chairman and Vice-Chairman;
- (ii) to deal with questions from members of the public in accordance with paragraph 16.12.4;
- (iii) appoint members to such committees and sub-committees as the Council considers appropriate;
- (iv) confirm the size and terms of reference for those committees and sub-committees;
- (v) decide the allocation of seats on all such committees and sub-committees in accordance with the political balance rules;
- (vi) elect a chairman for all such committees; and
- (vii) determine the dates of Council meetings for the remainder of the municipal year, if they have not already been determined.

In a year of ordinary elections of Members to the Council the Council shall, at its annual meeting, in addition to the requirements set out above:

- (i) receive a report of the Chief Executive on the return of Members elected;
- (ii) receive notification of the memberships of political groups;
- (iii) receive notification of the names of Group Leaders and their Deputies;
- (iv) elect the Leader of the Council, and
- (v) receive notification from the Leader of:
  - (a) the appointment of the Cabinet, including a Deputy Leader of the Council and the names of Cabinet Members and their portfolios;
  - (b) the terms of reference of any cabinet committees; and
  - (c) any delegation of executive functions to any area committees or in any joint arrangements and delegations of executive functions to Cabinet Members and officers.

## **16.8 Motions**

### **16.8.1 Scope of motions**



No motion or question shall be put unless it relates to some question over which the Council has power or which affects the Council.

### **16.8.2 Notices of motion**

Except for motions which may be moved without notice under paragraph 16.8.5 below, written notice of every motion must be delivered to the Chief Executive not later than 10:30am six clear days before the meeting (i.e. the working day before the agenda is published).

Written notice must be signed by the Member intending to move the motion and at least one other.

Other than at the annual budget meeting for which no notices of motions shall be accepted, a maximum of four motions shall be accepted for debate at an Ordinary Meeting of the Council under this standing order.

The motions available at each meeting will be allocated annually by the Chairman in advance of the Annual Meeting in accordance with the following rules:

- (i) A group which has a majority of seats on the Council shall be allocated 2 motions at each meeting where motions are allowed.
- (ii) The remaining motions shall be allocated to other groups in proportion to the proportion of opposition seats held by that group. Where exact proportionality cannot be achieved the Chairman shall have regard to broad proportionality and to the number of motions received by a group in preceding years.

If any Group does not take its allocation of motions at a meeting there will be no reallocation to another Group.

If there are two or more independent members, then they shall be considered as a group for the purposes of this rule only.

### **16.8.3 Chairman's discretion to accept urgent motions**

The Chairman may accept urgent motions if the Chairman is of the opinion that there are special circumstances that warrant a motion being considered as a matter of urgency.

### **16.8.4 Chairman's discretion on motions**

The Chairman shall decide whether any particular motion of which notice has been given complies with paragraph 16.8.1.

### **16.8.5 Motions which may be moved without notice**

The following motions and amendments may be moved without notice:

- (i) a motion to appoint a Member to Chair the meeting at which the motion is moved;
- (ii) a motion relating to the accuracy of the minutes;
- (iii) a motion that an item of business specified in the summons has precedence;
- (iv) a motion to appoint a committee or member thereof, occasioned by an item mentioned in the summons to the meeting;
- (v) a motion to adopt reports or their recommendations and recommendations of committees and any consequent resolutions;
- (vi) a motion to comment upon matters contained in reports of committees for the information of the committee concerned;
- (vii) a motion that leave be given to withdraw a motion;
- (viii) a motion that the Council proceed to the next business;
- (ix) a motion that the question be now put;
- (x) a motion that the debate be now adjourned;
- (xi) a motion that the Council does now adjourn;
- (xii) a motion that the Standing Orders be suspended, in accordance with Article 1;
- (xiii) a motion to exclude the press and public in accordance with the Access to Information Procedure Rules;
- (xiv) a motion that a Member named under paragraph 16.9.15: Disorderly Conduct, not be heard further or do leave the meeting;
- (xv) a motion giving the consent of the Council where the consent of the Council is required by these Standing Orders; or
- (xvi) a motion for such other urgent purposes as the Chairman may approve.

#### **16.8.6 Rescission of preceding resolution**

No motion to rescind any resolution passed within the preceding six months, and no motion or amendment to the same effect as one which has been rejected within the preceding six months, shall be considered unless:

- (i) in the opinion of the Chairman significant new information has come to light since the original debate; or
- (ii) the notice thereof given in pursuance of paragraph 16.8.2 above bears the names of at least 25 Members of the Council; or
- (iii) it is moved in pursuance of the recommendation of a committee or the Cabinet.

## **16.9 Rules of debate**

### **16.9.1 Discussion of motion at Council**

A motion shall not be discussed at Council unless any necessary notice has been given in accordance with 16.8.2 above and it has been proposed and seconded or it has been accepted by the Chairman as an urgent item of business.

### **16.9.2 Number of speeches**

No member may speak more than once in a debate on a motion or any amendment to that motion except:

- (i) the mover of a motion which is made following a report presented to the Council shall have a right of reply, immediately before the question is put to the vote;
- (ii) on a point of order; or
- (iii) by leave of the Chairman in explanation of any material statement made by him which he believes to have been misunderstood.

### **16.9.3 Proposer's speech**

Subject to any other provision of these standing orders, the Proposer of any Motion which is the subject of a debate shall make a speech as soon as the Motion has been seconded.

### **16.9.4 Secunder's speech and order of speeches**

The following rules apply to determine when the Secunder of a motion may speak when a motion is being debated:

- (i) (a) a Member who has seconded a motion other than the motion to adopt the council's budget or a motion arising from a report, will be permitted to speak at the start of the debate or, if that member declares an intention to do so, at the end of the debate on the motion;
- (b) a Member who has seconded the motion to adopt the council's budget or a motion arising from a report budget motion, will be permitted to

speak at the start of the debate or, if that member declares an intention to do so, at the end of the debate on the motion, immediately before the summing up speech;

- (ii) The order of speeches at the end of the debate is:
  - (a) seconders of amendments not moved by a Cabinet Member who have not already spoken, followed by
  - (b) seconders of amendments moved by a Cabinet Member who have not already spoken, followed by
  - (c) the seconder of the substantive motion if they have not already spoken, and
  - (d) on a motion to adopt the Council's budget or a motion arising from a report, the proposer or Leader as provided for elsewhere in the constitution.

### **16.9.5 Content and length of speeches and debates**

- (i) Members shall direct their speeches to the question under discussion or to a personal explanation or to a point of order. The length of time given to each Member to speak will not exceed the following time limits:
  - (a) the mover of a motion, other than an amendment – five minutes;
  - (b) a speech made by a Cabinet Member where the question relates to a matter under their portfolio responsibility (such speech may be made at the time an amendment is proposed or seconded) – five minutes;
  - (c) any other Member – three minutes;
  - (d) the limits set out above shall not apply to a Member presenting or responding to questions in connection with a report or a paper and recommendations.
- (ii) The following will apply to the debate on motions of which notice has been given under standing order 16.8.2 or notices of motion accepted by the Chairman as an urgent item of business:
  - (a) there will be a maximum time limit of 40 minutes per motion and any amendments thereto;
  - (b) the maximum length of time for the consideration of all such motions will be 160 minutes;
  - (c) the Chairman may extend those limits in a particular case.
- (iii) When dealing with the annual budget debate the following limits to the lengths of speeches shall apply:

(a) The Leader of the Council or, at the discretion of the Leader, the Cabinet Member with responsibility for Finance, when making the budget speech and summing up the debate – no time limit;

(b) The Cabinet Member speaking in support of the budget speech – 10 minutes;

(c) The Leader of the largest opposition group or their nominated representative, when responding to the budget speech – 10 minutes;

Where the largest opposition groups have an equal number of members then the Leader of each such group – 6 minutes;

(d) Leaders of opposition groups or their nominated representative, to whom (c) does not apply, when proposing an amendment to the budget motion – six minutes;

(e) Individual Cabinet Members or, in the absence of a Cabinet Member, their nominated Deputy Cabinet Member when responding to any specific issues raised in relation to their Portfolio budgets – 6 minutes; and

(f) Any other Member – three minutes.

(iv) All timings of speeches are at the discretion of the Chairman.

#### **16.9.6 Only one Member to speak at a time**

Only one Member may speak at a time. Members wishing to speak shall indicate to the Chairman. Members may only speak when called upon to do so by the Chairman or if they wish to raise a point of order or personal explanation or to propose a motion of a type which may be moved during a debate. While a member is speaking, they shall stand unless the Chairman directs or agrees otherwise.

#### **16.9.7 Amendments to motions**

(i) Amendments may be moved in accordance with this standing order if they are relevant to the motion and propose changes to the motion by either:

- (a) changing the motion so that it refers a matter to a Committee, the Cabinet or a Portfolio Holder for consideration or reconsideration;
- (b) to leave out words;
- (c) to leave out words and insert or add others; or
- (d) to insert or add words;

but such omission, insertion or addition of words shall not have the effect of introducing a new subject matter into the motion before the Council or negating the motion.

(ii) No amendment may be moved unless:

- (a) it has been put in writing and handed to the Head of Democracy and Transparency by no later than 12:00 midday on the working day before the meeting in a format to be specified by the Monitoring Officer; or
  - (b) the Chairman agrees that there are exceptional reasons why (a) could not have been complied with.
- (iii) At any time before the conclusion of their speech the mover of a motion may indicate to the Chairman that they accept any amendment which has been moved and, if an amendment is accepted
  - a. the motion shall be treated as having been moved as amended by the accepted amendment; and
  - b. the amendment motion shall be considered to have been withdrawn.
- (iv) Subject to (v) below, only one amendment may be moved and discussed at any one time. No further amendment shall be moved until the amendment under discussion has been disposed of.
- (v) The Chairman may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Council's business.
- (vi) If an amendment is not carried, further amendments to the original motion may be moved in accordance with this Standing Order.
- (vii) If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the substantive motion.
- (viii) Where an amendment is carried or accepted and there are further amendments which have not been disposed of and the amendment is no longer compatible with the motion as amended the Chairman must either
  - (a) give the proposer of the amendment an opportunity to revise their amendment in a way that the Chairman agrees makes it compatible with the principal changes effected by the carried or accepted amendment; or
  - (b) decide not to put the amendment to the vote if the Chairman considers the amendment cannot reasonably be made compatible.
- (ix) After an amendment has been carried, the Chairman will, if requested to do so by Members, read out the amended motion before accepting any further amendments for debate, and, if there are none, put the amended motion to the vote.

### **16.9.8 Alteration to motions**

A Member may, with the consent of the Council, move a motion of which he has given notice, in accordance with paragraph 16.8.2 above in a different form to that printed in the Agenda for the meeting.

A Member may alter a motion he has moved without notice with the consent of both the Council and the Secunder.

The Council's consent under this paragraph will be signified without discussion.

Only alterations which could be made as an amendment under 16.9.7 may be made.

#### **16.9.9 Withdrawal of motion**

A Member may withdraw a motion he has moved with the consent of both the Secunder and of the Council.

The Council's consent will be signified without discussion.

No Member may speak on the motion after the mover has asked permission to withdraw it unless such permission is refused.

#### **16.9.10 Motions which may be moved during a debate**

When a motion is under debate no other motion shall be moved except the procedural motions:

- (i) to amend the motion;
- (ii) to adjourn the meeting;
- (iii) to adjourn the debate;
- (iv) to proceed to the next business;
- (v) that the question be now put;
- (vi) that a Member named under paragraph 16.9.15 below: Disorderly Conduct, not be heard further or do leave the meeting; or
- (vii) a motion to exclude the public in accordance with the Access to Information Procedure Rules.

#### **16.9.11 Closure motions**

A Member may move, without comment, the following motions at the conclusion of a speech of another Member:

- (i) that the Council proceeds to the next business;
- (ii) that the question be now put;
- (iii) that the debate be now adjourned; or
- (iv) that the Council does now adjourn;

on the seconding of which the Chairman shall, unless in his opinion the matter before the meeting has been insufficiently discussed, proceed as follows:

- (i) on a motion to proceed to the next business: the Chairman shall first give the seconder of the original motion his right to speak, and then put to the vote the motion to proceed to the next business;

- (ii) on a motion that the question be now put: the Chairman shall put to the vote the motion that the question be now put, and if it is passed then give any right of reply under paragraph 16.9.2 or 16.9.4 above before putting the motion to the vote;
- (iii) on a motion to adjourn the debate or the meeting: the Chairman shall put the adjournment motion to the vote without giving the seconder of the original motion his right to speak on that occasion.

#### **16.9.12 Motions affecting persons employed by the Council**

If any question arises at a meeting of the Council as to the appointment, promotion, dismissal, salary, pension or conditions of service, or as to the conduct of any person employed by the Council, a motion in accordance with the Access to Information Rules, for the exclusion of the public shall be moved forthwith by the chairman of the committee concerned and put without debate.

#### **16.9.13 Points of order or personal explanation**

A member may rise on a point of order or by leave of the Chairman in personal explanation and shall be entitled to be heard forthwith.

A point of order may only relate to an alleged breach of a Standing Order or statutory provision and the member shall specify the Standing Order or statutory provision and the way in which they consider it has been broken.

A personal explanation shall be confined to some material part of a statement made at any time by that member which may appear to have been misunderstood or misrepresented in the present debate.

#### **16.9.14 Respect for Chair**

Whenever the Chairman rises during a debate any Member then standing shall resume his seat and the Council shall be silent.

#### **16.9.15 Disorderly conduct**

If at a meeting any Member of the Council, in the opinion of the Chairman misconducts himself by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly, or offensively, or by willfully obstructing the business of the Council, any Member may move:

- (i) "that the Member named be not further heard"; and the motion if seconded shall be put and determined without discussion;
- (ii) if the Member named continues his misconduct after a motion under the foregoing paragraph has been carried a Member shall:



- (a) either move "that the Member named do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion); or
- (b) the Chairman may adjourn the meeting for such period as he in his discretion shall consider expedient: and
- (c) the Chairman may also give such directions as he shall consider appropriate for the removal of the Member named and the restoration of order.

#### **16.9.16 General disturbance**

In the event of general disturbance which in the opinion of the Chairman renders the due and orderly despatch of business impossible, the Chairman, in addition to any other power vested in him, may, without question adjourn the meeting of the Council for such period as he in his discretion shall consider expedient.

#### **16.9.17 Disturbance by members of the public**

If a member of the public interrupts the proceedings at any meeting the Chairman shall issue a warning. If the interruption continues the Chairman shall order that person to be removed from the Council Chamber or direct that the part of the Council Chamber open to the public be cleared.

### **16.10 Voting**

#### **16.10.1 General provisions about voting**

- (1) On a division (except as otherwise provided in these Standing Orders) the voting shall be by show of hands or in such manner as the Chairman may direct.
- (2) Before a vote is taken, any Member may request a division by name. Upon receiving such a request, the Chairman shall allow members an opportunity to indicate their support for this request by standing in their place or in such other manner as the Chairman may direct. If ten members support the request, the Chief Executive shall call on each Member of the Council to individually vote for, against or abstain on the motion. The votes shall be recorded, and the Chairman shall declare the result.
- (3) Where there has been a division by name, the names of Members voting for and against the proposition or abstaining shall be recorded in the minutes.
- (4) At the request of any Member there shall be recorded in the minutes of the proceedings of the meeting whether that Member voted for or against the question or whether that Member abstained from voting. Any such request must be made immediately after a vote is taken.

## **16.10.2 Voting on budget decisions**

Immediately after any vote is taken on the level of the precept to be levied by the Council there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

For the interpretation of this rule please see Standing Order 16.20.5.

## **16.10.3 Voting on appointments**

Where there are more than two persons nominated for any position to be filled by the Council, and of the votes given there is not a majority in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken, and so on until a majority of votes is given in favour of one person.

## **16.11 Other business at Council meetings**

### **16.11.1 Executive Statements**

- (i) An item ('Executive Statements') will be included on the agenda for every Council meeting other than an extraordinary meeting.
- (ii) The purpose of an Executive Statement is to allow the Leader of the Council or a Cabinet Member to update the Council on current issues of importance that cannot be covered elsewhere as part of the usual business.
- (iii) No executive statement may last more than 10 minutes. The executive statements made at a meeting shall not in total last more than 20 minutes. The maximum length of each statement shall be notified in accordance with (iv).
- (iv) No statement shall be made unless
  - a. The subject of any proposed statement and the identity of the person who will be making it should be notified by the Leader to the Head of Democracy and Transparency by 5pm two working days prior to the Council meeting. The Head of Democracy and Transparency will send an e-mail notification to all Members of the Council; or
  - b. the Chairman agrees that there are exceptional circumstances which mean that the statement should be made notwithstanding that (a) has not been complied with. Any request under this paragraph must be made at the earliest possible opportunity to the Head of Democracy and Transparency. If the Chairman agrees the request the Head of Democracy and Transparency shall notify the leaders of all political groups at the earliest possible opportunity.

- (v) At the meeting, the Leader of the Council or Cabinet Member will be entitled to address the Council on the subject of the Statement for the time allocated.
- (vi) After a statement has been made or, at their discretion, after all statements have been made, the Chairman shall then invite leaders of opposition groups (or a member nominated by them) to make a statement in reply for up to three minutes for each statement that has been made.
- (vii) After all opposition group leaders (or their nominees) have had the opportunity to speak on all statements the Leader (or their nominee) shall have up to five minutes to respond.
- (viii) After the Leader has responded the Chairman will set a period of time during which Members of the Council may ask questions relating to the statements. The originator of the Statement shall respond to the questions as they are raised or, at the discretion of the Chairman, at the end of all the questions.

### **16.11.2 Petitions**

This Standing Order applies when a petition is required to be reported to the Council in accordance with its Petitions Policy.

The petition organiser shall be given five minutes to present the petition to the full Council following which the petition shall be discussed by the Members for a maximum of 15 minutes.

The Leader or a relevant Cabinet Member shall move a motion in response to the petition.

## **16.12 Questions at Council meetings**

### **16.12.1 Questions on reports**

A Member may ask the Leader, Cabinet Member or Chairman of a committee any question on any report of the Cabinet or a committee (other than a report which is for information only) when that item is under consideration by the Council.

### **16.12.2 Other oral questions**

A Member may ask any oral question of:

- (i) the Chairman
- (ii) the Leader
- (iii) a Member of the Cabinet
- (iv) the Chairman of any Committee or Sub-Committee or

- (v) the Member appointed by Essex County Council as its representative on the Essex Police, Fire and Crime Panel,

on any matter in relation to which the Council has powers or duties or which affects Essex but which is not capable of being dealt with under paragraph 16.12.1.

The time allotted at each meeting for the putting and answering of questions under this paragraph shall not exceed 20 minutes, without the leave of the Chairman of the Council.

### **16.12.3 Form of answer**

An answer may take the form of:

- (i) a direct oral answer; or
- (ii) where the desired information is contained in a publication of the Council, a reference to that publication; or
- (iii) where the Chief Executive considers that the reply to the question can conveniently be so given, by a written answer circulated to the Members of the Council present at the meeting.

The person to whom a question has been put may, on reasons stated, decline to answer.

### **16.12.4 Questions asked by Members of the Public**

- (i) At every meeting of the Full Council there shall be a period of up to 30 minutes to enable members of the public to ask questions. A petition may be handed to the Chairman; but no other written statement or document may be handed up or circulated to the meeting. The Chairman has the discretion to extend the period of 30 minutes if they consider it appropriate to do so.
- (ii) There is a presumption that a question asked under this paragraph will be answered, subject only to the law and the provisions of these rules.
- (iii) A member of the public may ask a question under this Standing Order only if it has been sent to the Head of Democracy and Transparency by email at:

[democratic.services@essex.gov.uk](mailto:democratic.services@essex.gov.uk)

by no later than 10.30am seven days before the meeting. The Head of Democracy and Transparency may agree that a question may be submitted by an alternative means.

- (iv) A question may be rejected by the Chairman if it would result in:
  - (a) Any person submitting more than one question for a meeting.
  - (b) Any organisation or group of people submitting more than one question; or
  - (c) More than one question being raised on the same subject at any one meeting.

If a question is rejected the Chairman may suggest that questioners work together to amalgamate or modify questions to include aspects of an issue which others wished to raise.

- (v) A question may be rejected by the Chairman if it:
  - (a) is not about a matter for which the Council has powers or duties;
  - (b) is defamatory, frivolous, vexatious or offensive;
  - (c) is substantially the same as a question put to a meeting in the previous six months;
  - (d) includes any confidential or exempt information or if the answer is likely to involve the disclosure of any confidential or exempt information; or
  - (e) is or is likely to be subject to separate appeal, adjudication, litigation, mediation or dispute resolution.

If a question is rejected under this Standing Order then the Council will provide a written explanation as to why it has been rejected.

- (vi) The Chairman may edit any question submitted, for brevity, to remove references to any body or person which is not able to answer back at the meeting or to otherwise bring the question into order.
- (vii) Questions which have not been rejected will be set out in writing and circulated in the order paper for the meeting.
- (viii) Where questions are rejected the Head of Democracy and Transparency will publish on the Council's website:
  - (a) The name of the person who sought to ask the question,
  - (b) The reason why the question was rejected; and
  - (c) The text of the question to the extent that it is considered appropriate to publish it.
- (ix) Questions will normally be dealt with in the order in which notice was received. The Chairman may revise the order of questions if they consider it appropriate, for example to group together similar questions.
- (x) At the appropriate time the Chairman will invite the person who gave notice of the question or, if the Chairman agrees otherwise, another person on their behalf, to ask the question. The person asking the question must be present at the meeting or the question will not be asked. A period of three minutes will be allowed for the question to be asked. The question must be asked in the same form as published.

- (xi) If the person who gave notice of the question is unable to attend the meeting they may, if the Chairman agrees, nominate another member of the public to ask it instead. Any such person shall be treated as the person giving notice of the question.
- (xii) There is no opportunity for a member of the public to make a statement or to ask a supplementary question. The question must be asked using the wording unless the question has been edited by the Chairman when the edited version must be used.
- (xiii) The relevant Member will respond to the question orally. Any answer may refer to published information.
- (xiv) No other Member shall be permitted to speak.
- (xv) Any question of which proper notice has been given but which is not dealt with at the meeting will not be held over to the next meeting: after the meeting a written response will be given in the form in which the question was received.

### **16.13 Officers' interest in contracts and other matters**

In addition to disclosing any interest in a contract pursuant to section 117 of the Local Government Act 1972, any officer of the Council shall also disclose in writing to the Chief Executive any such interest which he may have in a proposed contract or other matter.

Any officer present at a meeting at which a contract, proposed contract or other matter in which he has disclosed an interest under section 117 of the 1972 Act shall as soon as practicable after the commencement of the meeting, disclose orally that interest which shall be recorded in the minutes of the meeting.

### **16.14 Members Declarations of Interests**

Members must declare interests and withdraw from the room as required by the Code of Conduct set out in part 24 of the Constitution.

### **16.15 Reporting of meetings by persons attending**

#### **16.15.1 Requests from reporters**

The Chairman shall respond to requests made in accordance with section 100A(6)(c) of the Local Government Act 1972 from any person attending the meeting for the purpose of reporting the proceedings to be afforded reasonable facilities for taking their report.

#### **16.15.2 Protocol on the use of electronic devices at meetings held in public**

1. Introduction

The purpose of this protocol is to provide guidance on the use of electronic devices by members of the public or representatives of the media at meetings held in public. This includes filming, audio recording, taking photographs, blogging, tweeting and posting to social media websites.

## 2. General Principle

The use of electronic devices for reporting purposes is, in certain circumstances, recognised as contributing towards transparency and democratic debate and there is a presumption in favour of allowing their use. However, the proceedings of a meeting must not be disrupted by the use of electronic devices and such use must not inhibit the proceedings. Oral commentary provided during the meeting will not therefore be permitted.

## 3. Filming and Audio Recording

Filming and audio recording of meetings, normally by representatives of the media but also by members of the public using small devices, is generally permitted. Members of the public are encouraged to submit a request for this purpose at least two working days before the meeting c/o Democratic Services, P O Box 11, County Hall, Chelmsford, Essex CM1 1LX or by email to [Democratic.services@essex.gov.uk](mailto:Democratic.services@essex.gov.uk) Such requests should include:

- the name, organisation and contact details of the person making the request;
- what equipment will be used;
- what the film or audio recording will be used for; and
- when the person wishes to film or record during the meeting.

On receipt of a request to film or audio record a meeting, Democratic Services will liaise with the Chairman of the meeting, or in their absence the Vice-Chairman, to ensure the request accords with the general principle set out above.

Any filming or audio recording must take place from fixed positions in the meeting room agreed with the Chairman of the meeting. Equipment must be set up before the meeting starts.

If the Chairman considers that the filming or audio recording is disrupting the meeting in any way, the operator will be required to stop immediately.

No-one, including a member of the Council, is permitted to film, record or report any part of a meeting where the press or public are excluded because confidential or exempt information would be disclosed.

The requirements and obligations contained within, and arising from this protocol will be provided to the member of the public or media organisation when a request to film or audio record has been received, and will state that filming and audio recording will only proceed on the understanding that they will be adhered to.

#### 4. Other use of Electronic Devices

No restrictions will be placed on anyone in the public gallery at a meeting in relation to the use of twitter, blogs, facebook and photography, provided that there is no flash photography and the Chairman considers their actions are not disrupting the proceedings of the meeting.

At the start of the meeting the Chairman will request that all mobile phones are set to 'silent' to ensure that the meeting is not disrupted.

### **16.16 Standing Orders applying to committees**

#### **16.16.1 Standing Orders to apply to committees**

The following Standing Orders of the Council and those relating to contracts shall, with any necessary modification, apply to committees and groups:

- 16.5** Quorum (but the quorum of any committee shall be at least three members)
- 16.9** Rules of debate except those parts which relate to standing, length of speeches and to speaking more than once;
- 16.10** Voting;
- 16.13** Officers' interest in contracts and other matters;
- 16.15** Reporting of meetings by persons attending.

Provided that the ruling of the Chairman of the meeting as to the construction or application of these Standing Orders or as to any other aspect of the proceedings of the meeting, shall be final and shall not be challenged at any meeting of the committee or group.

#### **16.16.2 Attendance of non-members at meetings**

A Member of the Council is permitted to attend any committee of which he is not a member and, if invited to do so by the Chairman of the meeting, may take part in a discussion but may not vote.

#### **16.16.3 Minority reports**

If a minority consisting of:

- (i) one-fourth of the members; or
- (ii) two members;

present at any meeting of a committee signs a minority report on a matter upon which the committee is proposing to report to the Council, and forwards it to the Chief Executive to reach him by the fourth working day following the date of the meeting, he shall cause copies of such minority report to be circulated with the report of the committee.

#### **16.16.4 Substitute members**



Where a member of a committee ('the Member') does not intend to attend a meeting of that committee, another member ('the Substitute') may be appointed as a member of that committee in place of the Member.

A substitute is appointed when a written substitution notice is received by or on behalf of the Head of Democracy and Transparency no later than 30 minutes before the start of the relevant meeting. A substitution notice may be sent by:

- (i) the Member
- (ii) the Leader of the Member's Political Group
- (iii) the Deputy Leader of the Member's Political Group
- (iv) the Spokesman appointed by the Member's Political Group on that committee.

The effect of a substitution notice is that the Member named in the notice shall cease to be a member of that committee for the duration of that meeting and the Substitute shall be a full member of the committee for the same period.

A substitution notice may be revoked by the Member or the person who gave it at any time preceding the deadline for the giving of a substitution notice.

These arrangements also apply to meetings of groups and panels of all committees.

#### **16.17 Email**

Where any notice is required to be given under these Standing Orders or any other provision of the Constitution it may be validly given by fax or email and a signature shall be deemed to include a typed subscription of the Member or Members' name or names to the fax or email.

#### **16.18 Proceedings and business**

In this Standing Order –

“Cabinet” and “Leader” have the same meanings as “Executive” and “Executive Leader” in Part II of the Local Government Act 2000; and

“plan or strategy” and “working day” have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.

#### **16.19 Draft plan or strategy**

Where the Cabinet has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in paragraph 16.19.1 below.

### **16.19.1 Objections to draft plan or strategy**

Before the Council:

- (i) amends the draft plan or strategy;
- (ii) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
- (iii) adopts (with or without modification) the plan or strategy,

it must inform the Leader of any objections which it has to the draft plan or strategy and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

### **16.19.2 Leader's action on receipt of objections**

Where the Council gives instructions in accordance with paragraph 16.19.1, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:

- (i) submit a revision of the draft plan or strategy as amended by the Cabinet (the "revised draft plan or strategy"), with the Cabinet's reasons for any amendments made to the draft plan or strategy, to the Council for the Council's consideration; or
- (ii) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

### **16.19.3 Council's action when considering amended drafts**

When the period specified by the Council, referred to in paragraph 16.19.2, has expired, the Council must, when:

- (i) amending the draft plan or strategy, or if there is one, the revised draft plan or strategy;
- (ii) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
- (iii) adopting (with or without modification) the plan or strategy;

take into account:

- (i) any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy;
- (ii) the Cabinet's reasons for those amendments;

(iii) any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for that disagreement; which the Leader submitted to the Council, or informed the Council of, within the period specified.

## **16.20 Council Tax**

Subject to paragraph 16.20.4, where, before 8 February in any financial year, the Cabinet submits to the Council for its consideration in relation to the following financial year:

- (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 or 43 to 49, 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; or
- (iv) amounts required to be stated in a precept under chapter IV of Part I of the Local Government Finance Act 1992;

and following consideration of those estimates or amounts the Council has any objections to them; it must take the action set out in paragraph 16.20.1.

### **16.20.1 Council Tax - objections**

Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 6(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Cabinet's estimates or amounts and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

### **16.20.2 Leader's action on receipt of objections**

Where the Council gives instructions in accordance with paragraph 16.20.1, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:

- (i) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or

- (ii) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

### **16.20.3 Council's action when considering amendments**

When the period specified by the Council, referred to in paragraph 16.20.2, has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 6(a), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:

- (i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (ii) the Cabinet's reasons for those amendments;
- (iii) any disagreement that the Cabinet has with any of the Council's objections; and
- (iv) the Cabinet's reasons for that disagreement;

which the Leader submitted to the Council, or informed the Council of, within the period specified.

### **16.20.4 Paragraphs 16.20 – 16.20.3 shall not apply in relation to:**

- (i) calculations or substitute calculations which a Council is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
- (ii) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

### **16.20.5 Definition of a budget decision**

- (i) "budget decision" means a meeting of the Council at which it –
  - (a) makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992; or
  - (b) issues a precept under Chapter 4 of Part I of that Act, and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting;

- (ii) references to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.

## **17. Cabinet Procedure Rules**

### **17.1 Cabinet Meetings**

The Cabinet will meet at least eight times per year at times to be agreed by the Leader.

### **17.2 Quorum**

The quorum for a meeting of the Cabinet (or a committee of it) shall be three members of the Cabinet. A person shall count as part of the quorum if they are in the room or participating remotely in accordance with paragraph 17.4

### **17.3 Taking Decisions**

Cabinet decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules as applicable in Part 4 of this Constitution.

Where Cabinet decisions are delegated to a committee of the Cabinet, the rules applying to Cabinet decisions taken by such a committee shall be the same as those applying to those taken by the Cabinet as a whole.

All decisions shall be in accordance with the rules and procedures contained within this Constitution, and in particular Article 5 and those delegated powers contained within Part 3.

### **17.4 Remote participation**

Notwithstanding any provision in the constitution to the contrary, any Member of the Cabinet (including the Leader) may participate in a meeting of the Cabinet and vote on any item of business notwithstanding that they are not present at the place where the meeting takes place, if:

- (a) the agenda for the meeting includes instructions on how members may participate in the meeting remotely
- (b) the Member concerned has been able to hear and, where practical, see the meeting; and
- (c) persons present at the meeting have been able to hear and, where practical, see the member during all or most of the discussion of the item; and
- (d) the Member concerned is able to indicate how they wish to vote
- (e) the Member is not prevented by the Code of Conduct from being present or voting.

## **17.5 Conduct of Meetings**

### **17.5.1 Chairmanship**

The Leader will preside at any meeting of the Cabinet (or its committees). If the Leader is not present then the Deputy Leader will preside. If neither the Leader nor the Deputy Leader is present then a person nominated by the Leader shall preside, or if no such person is present then the meeting shall elect someone to preside.

### **17.5.2 Public Questions and Representations**

#### **(a) General**

At the start of every meeting to which these rules apply there shall be a period of up to 15 minutes to enable members of the public to make representations or ask questions on a substantive item of business on the agenda for that meeting. The period of 15 minutes may be extended at the discretion of the Chairman.

#### **(b) Prior notice**

Members of the public wishing to ask questions or make representations must submit their question/representation in writing no later than 12 noon two working days before the meeting. Submissions must be made to:

[democratic.services@essex.gov.uk](mailto:democratic.services@essex.gov.uk)

or by such other means as may be permitted by the Head of Democracy and Transparency.

#### **(c) Presumption in favour of answering questions**

Subject to the rules in this paragraph, there is a presumption that questions will be answered.

#### **(d) Rejection of questions/representations**

The Chairman may reject or amend any question/representation on the same grounds that a question at a meeting of the Council.

In exercising their powers under this paragraph, the Chairman must consider whether any question/representation can be amended rather than rejecting it and shall, in making decisions, have regard to:

- (i) The benefit of hearing as many diverse views as possible in consideration of an issue
- (ii) The importance of allowing public participation in decision making

(iii) The importance of giving a fair opportunity to as many people as possible

(e) Order of questions/representations

The Chairman shall determine in which order questions/representations are taken at the meeting.

(f) At the meeting

The Chairman will call speakers by name and invite them to address the Committee.

(g) Length of question/representation

No statement or question should last longer than three minutes and speakers will be timed. For best effect they should be short and concise. Comments must be relevant to a substantive item on the agenda. Any questions/representations must be asked within the 3 minute time limit.

(h) Written Material

No written or photographic material may be handed round at the meeting, with the exception of a petition related to an item under discussion.

(i) Responding to the statement/question

Responses will be given either at the start of the meeting or as part of the consideration of the relevant item of business. The response will usually be given by the relevant Cabinet Member or the Chairman of the committee meeting. The person answering the question may elect to give a more detailed written answer after the meeting. There will be no opportunity for asking a supplementary question.

If any questions remain unanswered at the end of the period allowed for questions/representations the Chairman may direct that the question receives a written response.

(j) Rejected questions/representations

Where questions are rejected the Head of Democracy and Transparency will publish on the Council's website:

- (a) The name of the person who sought to ask the question;
- (b) The reason why the question was rejected; and
- (c) The text of the question to the extent that it is considered appropriate to publish it.

### **17.5.3 Business**

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

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the Cabinet (whether by Overview and Scrutiny Committees or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Committee Procedure Rules or the Budget and the Policy Framework Procedure Rules contained within Part 4 of this Constitution; and
- (iv) matters set out in the agenda for the meeting, and which shall indicate which are Key Decisions and which are not in accordance with the Access to Information Procedure Rules contained within Part 4 of this Constitution.

### **17.5.4 Consultation**

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

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

### **17.5.5 Cabinet Agenda**

The Leader of the Council will decide upon the schedule for the meetings of the Cabinet. He may put on the agenda of any Cabinet meeting any matter which he wishes, whether or not authority has been delegated to the Cabinet, a committee of it or any Member or officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.

The Monitoring Officer, the Section 151 Officer or the Head of Paid Service may include an item for consideration on the agenda of a Cabinet meeting and may request such a meeting in pursuance of their statutory duties.

If there is no meeting of the Cabinet scheduled to take place in the immediate future to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened to enable the matter to be considered.

## **17.6 Procedures Prior to Private Meetings**



In accordance with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, at least 28 days before a decision is taken at a private meeting of an executive decision-making body is held notice will be available at County Hall, Chelmsford and on the Council's website of the intention to hold the meeting in private and the reasons for so doing.

At least five clear days before a decision is to be taken at a private meeting of an executive decision-making body is held further notice will be available at County Hall, Chelmsford, and on the Council's website of the reasons for holding the meeting in private, details of any representations received about why the meeting should be open to the public and a statement as to the response.

Where the date by which a meeting must be held makes compliance impracticable, the decision may be taken at a meeting held in private where agreement has been obtained by the decision-making body from

- (i) the Chairman of the Corporate Policy and Scrutiny Committee; or
- (ii) if there is no chairman of that committee, or if the chairman of that committee is unable to act, then the agreement of the Chairman of the Council, or
- (iii) in his absence, the Vice-Chairman of the Council;

that the meeting is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after agreement has been obtained a notice setting out the reasons why the meeting is urgent and cannot be deferred must be available at County Hall, Chelmsford and on the website.

## **17.7 Decision outside the Budget or Policy Framework**

- (a) Neither the Leader nor the Cabinet nor a member of the Cabinet nor any officer may take any decision which is contrary to the policy framework or contrary to or not wholly consistent with the budget, and such a decision shall be referred to the next available meeting of the full Council.
- (b) The restriction in (a) does not apply where
  - (i) The decision is contrary to the budget but has been amended in accordance with delegations in this constitution or in Financial Regulations; or
  - (ii) Both
    - a. the Chairman of the Corporate Policy and Scrutiny Committee (or in the absence of the Chairman of the Council) and in the absence of both the Vice-Chairman of the Council) authorises a decision to be taken; and
    - b. the decision is taken by the Leader, the Cabinet or, in the case of emergency, by the Chief Executive in

accordance with authority granted elsewhere in this constitution.

- (b) Where any authority is granted under 17.7 (b)(ii) :
  - (i) the authorisation shall be recorded in the decision or minutes as the case may be.
  - (ii) the authorisation shall be reported to the next available meeting of the council who shall decide whether to take any action in response.

## 18 Call in Rules

18.1 Call-in is an important way to have decisions taken by or on behalf of the Cabinet to be scrutinised. Before using call-in members are requested to consider the following as possible alternatives:

- (a) whether the issue may be resolved informally.
- (b) whether the matter could be the subject of post decision or post implementation scrutiny.

18.2 Subject to paragraph 18.3 any decision taken by

- (a) the Cabinet;
- (b) any Member of the Cabinet; or
- (c) any joint body or partnership specified in paragraph 13.3

may be called in to the Overview and Scrutiny Committee whose remit includes the subject matter of the decision.

18.3 A Decision may not be called in if:-

- (a) The Chairman of the Corporate Policy and Scrutiny Committee or in their absence the Chairman of the Council or in the absence of both, the Vice Chairman of the Council agrees that it is in the interests of the Council for the decision to be implemented urgently.
- (b) The decision is to make a recommendation to full Council
- (c) The decision is to go out to consultation or to respond to a matter upon which the Council has been consulted;
- (d) The decision is to appoint an individual to a particular role; or
- (e) The decision is a reconsideration of a previous decision as a consequence of a call-in.

Decisions exempt from call-in on the grounds of urgency shall be reported to the next available meeting of the Council, setting out the decision and the reasons for urgency.

18.4 The call-in period starts when the decision is published on the Council's website and ends at 5pm on the third working day following the date of publication. If a decision is not published because it includes confidential or exempt information then publication shall take place when it is sent to the chairman of the relevant policy and scrutiny committee.

18.5 When a decision is made by anyone referred to in 18.2 it shall be published as soon as possible and should, on the day of publication be sent to all members of the relevant Policy and Scrutiny Committee. The communication should say whether or not the decision may be called in.

18.6 No binding step to implement a decision which is subject to call-in may be taken until the expiry of the call-in period or, if the decision is called in, until the conclusion of the call-in process.

- 18.7 A decision which is subject to call-in is called in if, before the expiry of the call-in period the Monitoring Officer or the Head of Democracy and Transparency receive a request to call in the decision from:
- (a) any Member of the relevant Overview and Scrutiny Committee;
  - (b) any four Members of the Council; or
  - (c) with the agreement of the Chairman of the relevant Overview and Scrutiny Committee in consultation with the Monitoring Officer, any Member of the Council who represents a Division which is particularly affected by the decision in question.
- 18.8 A request to call-in a decision must be in writing and include the reasons for the call in (which may be expressed as support for another member's call-in).
- 18.9 A decision is called in if during the period specified in (iv) above a valid written call in notice is received which specifies the reasons for the call in.
- 18.10 On receipt of a notice of call-in the Head of Democracy and Transparency will:
- (a) arrange for the notice to be acknowledged in writing;
  - (b) for the decision maker to be formally notified in writing of the receipt of a notice of call-in; and
  - (c) for the Chairman of the relevant Overview and Scrutiny Committee to be informed where the Chairman is not a party to the call-in.
- 18.11 The Head of Democracy and Transparency shall then consult the decision maker (or the lead member if the decision was taken by Cabinet) and the who has called in and shall encourage them to meet with such other persons as they may wish with a view to resolving the call in informally.
- 18.12 If an informal meeting takes place the Head of Democracy and Transparency shall produce a note within 24 hours for circulation to all parties to the meeting for approval which records the main points taken at the meeting, including any assurance given by, or agreements reached with the decision maker.
- 18.13 If the call-in is withdrawn as a result of an informal meeting will be included on the Agenda for the next meeting of the Committee.
- 18.14 If no informal meeting is agreed or if the informal meeting does not result in withdrawal of the call-in an then the Head of Democracy and Transparency shall convene a meeting of the Committee to take place, normally on such date agreed with the Chairman to take place within ten clear working days of receipt of the request to call in, or if possible the next scheduled meeting of the committee.
- 18.15 The Chairman of the relevant committee shall determine how a call in is to be dealt with at the meeting which must as a minimum include an

opportunity for the lead member who has called in the decision to address the committee and an opportunity for the cabinet member to address the committee.

- 18.16 No Deputy to a Cabinet Member should attend a meeting of a Policy and Scrutiny Committee as a member of that Committee during consideration of a call-in, regardless of whether the call-in relates to the portfolio covered by the Deputy Cabinet Member.
- 18.17 At the meeting, the Committee must reach one of the following decisions:
- (a) To allow the decision to be implemented without further delay, in which case the call-in process ends and the decision may be implemented.
  - (b) To refer the decision back to the decision taker (or to the Cabinet) setting out in writing any concerns it has or its reasons for the referral.
  - (c) To refer the matter to the full Council also with a record of its concerns and reasons.
- 18.18 If the Committee asks for the decision to be reconsidered, the reconsideration shall take place as soon as practicable, taking account of the decision of the Committee.
- 18.19 If the Committee refers the decision to full council, the Head of Democracy and Transparency will liaise with
- (a) the Lead Member
  - (b) the Cabinet Member
  - (c) the monitoring officer
  - (d) the Executive Director for the decision
  - (e) the Chairman of the Council
- to determine how the matter will be reported to full Council, when the meeting will take place and what material will be submitted to the meeting.
- 18.20 When the Council considers a call in referred to it by an Overview and Scrutiny Committee, the Council may take a decision as set out in 18.17 (a) or 18.17(b)
- 18.21 Where the Council makes a decision in accordance with 18.17(b) reconsideration shall take place in accordance with 18.18.
- 18.22 A request to call-in a decision may be withdrawn at any time by notice in writing. Where more than one member has called in a matter it shall be presumed unless otherwise made clear that the lead member has authority to withdraw the call in on behalf of everyone calling in the decision.
- 18.23 Where a Policy and Scrutiny Committee considers a call-in and concludes that the decision is contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and the Section 151 Officer and unless they

advise that the decision is not contrary to the policy framework or contrary to or not wholly in accordance with the budget they consider referring the matter to Council.

## **19. Access to Information Procedure Rules**

### **19.1 Scope**

These rules apply to all meetings of the Council, the Council's Committees, and meetings of the Cabinet.

They have been prepared in accordance with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

### **19.2 Additional Rights to Information**

These rules are in addition to any more specific rights to information contained elsewhere in this Constitution or the law.

### **19.3 Rights to Attend Meetings**

Members of the public may attend all meetings subject only to the exceptions in these rules.

### **19.4 Notice of Meetings**

The Council will give at least five clear days' notice of any meeting by posting details of the meeting on the public notice boards at County Hall, Chelmsford and on the Council's website; or where the meeting is convened at shorter notice, at the time that the meeting is convened.

### **19.5 Access to Agenda and Reports for public meetings**

At least five clear working days before the meeting the Council will make copies of the following documents available for inspection by members of the public at County Hall, Chelmsford, and publish these documents on the Council's website:

- (i) the agenda for the meeting; and
- (ii) any reports which are to be made available to the public in accordance with these procedure rules.

Where the meeting is convened at shorter notice a copy of the Agenda and associated reports will be available for inspection when the meeting is convened.

If an item is added to the agenda after it has been made publicly available, the revised agenda will be made available for inspection from the time the item is added to the agenda.

However, if a report is not available at the time when the agenda is published it will be published on the Council's website on the same day it is sent to people invited to the meeting.

## **19.6 Supply of Copies**

The Council will supply copies of:

- (i) any agenda and reports which are required to be open to public inspection;
- (ii) any further statements or particulars necessary to indicate the nature of the items contained in the agenda; and
- (iii) if the Proper Officer thinks fit, copies of any other documents supplied to Members in connection with an item;

to any person on payment of a charge for postage and any other costs.

Copies will be freely available on the Council's website.

Except during any part of a public meeting during which the public are excluded, the Council will make available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and of the reports for the meeting.

## **19.7 Access to Minutes etc. after the Meeting**

The Council will make available copies of the following for six years after a meeting:

- (i) the minutes of the meeting and records of decisions taken, together with reasons, options considered and rejected, a record of any conflict of interest declared by any member of Cabinet and in respect of any declared conflict of interest a note of dispensation granted by the Head of Paid Service for all meetings of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (ii) a summary of proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (iii) the agenda for the meeting; and
- (iv) reports relating to items when the meeting was open to the public.

A copy of the minutes of the Council, the Cabinet, Committees and Sub-Committees will be available for public inspection at County Hall Chelmsford on weekdays during office hours.

Minutes will also be available on the Council's website.

## **19.8 Background Papers**

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

The Proper Officer will ensure that officers with responsibility for writing reports, set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his opinion:

- (i) disclose any facts or matters on which the report or an important part of the report is based; and
- (ii) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Paragraph 19.10 below) and in respect of Cabinet reports, the advice of a political adviser.

### **19.8.2 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 available at County Hall, Chelmsford, and on the Council's website.

## **19.9 Summary of Public's Rights**

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at County Hall, Chelmsford.

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

### **19.10.1 Confidential information – requirement to exclude public**

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

### **19.10.2 Exempt information – exclusion of press and public**



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

The public may only be excluded for that part of the meeting during which it is likely that confidential or exempt information would be disclosed.

In order to exclude the press and public a formal decision will be taken at the meeting.

While the meeting is open to the public, any person attending the meeting for the purpose of reporting the proceedings is, so far as is practicable, to be afforded reasonable facilities for taking their report. Nothing in the 2012 Regulations requires Cabinet to permit the taking of any photographs of any proceedings or the use of any means to enable persons not present to see or hear any proceedings or the making of any report on any proceedings.

### 19.10.3 Meaning of confidential information

Confidential information is;

- (i) information given to the Council by a Government Department on terms which forbid its public disclosure; or
- (ii) information which cannot be publicly disclosed by any enactment or by a Court Order.

### 19.10.4 Meaning of exempt information

Exempt information as set out in Schedule 12A of the Local Government (as amended) is information falling within one or more of the categories below subject to any qualification specified in respect of that category:

| Category   | Qualification   |
|--|---|
| 1. Information relating to any individual.   | Exempt information only 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. |
| 2. Information which is likely to reveal the identity of an individual.  | Exempt information only 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. |
| 3. Information relating to the financial or business affairs of any particular person (including the authority | Exempt information only 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. |

|  |   |
|--|---|
| <p>holding that information).</p>  | <p>Information within paragraph 3 is not exempt if it must be registered under;</p> <ul style="list-style-type: none"> <li>(i) the Companies Act 1985</li> <li>(ii) The Friendly Societies Act 1974</li> <li>(iii) The Friendly Societies Act 1992;</li> <li>(iv) The Industrial and Provident Societies Acts 1965 to 1978;</li> <li>(v) The Building Societies Act 1986; or</li> <li>(vi) The Charities Act 1993.</li> </ul> |
| <p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority.</p>           | <p>'Labour relations matters' are as specified in paragraph (a) to (g) of section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992, ie matters which may be the subject of a trade dispute; and</p> <p>Exempt information only 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.</p>    |
| <p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>  | <p>Exempt information only 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.</p>  |
| <p>6. Information which, reveals that the authority proposes –</p> <ul style="list-style-type: none"> <li>a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li>b) to make an order or direction under any enactment.</li> </ul> | <p>Exempt information only 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.</p>  |
| <p>7. Information relating to any action taken or to be taken in connection with the prevention,</p>   | <p>Exempt information only 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.</p>  |

|  |  |
|--|--|
| investigation or prosecution of crime. |  |
|--|--|

Information is not exempt information if it relates to proposed development for which the Local Planning Authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

In determining whether the exemptions above can be applied, the public interest test is the same test that is applicable under the Freedom of Information Act 2000.

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

If the Proper Officer thinks fit, the Council may exclude access of the public to reports to meetings which in his opinion relate to items during which, in accordance with Rule 19.10, the meeting is likely not to be open to the public. Such reports will be marked 'Not for publication' together with the category of information likely to be disclosed.

### **19.12 Application of Rules to the Cabinet**

Rules 19.13-19.20 apply to the Cabinet and its Committees (if any).

If the Cabinet or its committees meet to take a Key Decision then it must also comply with Rules 19.1-19.11 unless Rule 19.15 (general exception) or Rule 19.16 (special urgency) apply.

A Key Decision is defined in Article 5.3.2 of this Constitution.

### **19.13 Procedure before taking Key Decisions**

Subject to Rule 19.15 (general exception) and Rule 19.16 (special urgency), a Key Decision may not be taken unless:

- (i) a notice (called here a forward plan) has been published in connection with the matter in question;
- (ii) at least 28 clear working days have elapsed since the publication of the notice in accordance with (i) above; and
- (iii) where the decision is to be taken at the meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 19.4 (notice of meetings) and if the decision is to be taken in private at the meeting, notice has been given in accordance with Cabinet Procedure Rule 17.6 (Procedures Prior to Private Meetings).

## **19.14 The Forward Plan**

### **19.14.1 Availability of forward plan**

The Forward Plan will be available for inspection by the public at County Hall, Chelmsford, and on the Council's website. It will be updated on a rolling basis.

### **19.14.2 Contents of forward plan**

The forward plan will contain matters which the Leader considers are likely to be the subject of a Key Decision to be taken by the Cabinet, a Committee of the Cabinet or individual Members of the Cabinet. Each entry in the forward plan will include:

- (i) the matter in respect of which a decision is to be made;
- (ii) where the decision taker is an individual, that individual's name and title, if any, and where the decision taker is a body, its name
- (iii) the date on which, or the period within which, the decision is to be taken;
- (iv) a list of the documents submitted to the decision taker for consideration in relation to the matter.

## **19.15 General Exception from Inclusion in the Forward Plan**

Where the publication of the intention to make a Key Decision on the Forward Plan is impracticable, the decision may still be taken if:

- (i) the decision must be taken by such a date that it is impracticable to defer the decision until; notice has been given on the Forward Plan for at least 28 clear days;
- (ii) the Proper Officer has informed the Chairman of the Corporate Policy and Scrutiny Committee or if there is no such person, each member of that committee by notice in writing, of the matter to which the decision is to be made;
- (iii) the Proper Officer has made copies of that notice available to the public at County Hall, Chelmsford and on the website; and
- (iv) at least five clear days have elapsed since the Proper Officer complied with (ii) and (iii).

As soon as reasonably practicable after the Proper Officer has complied with (ii) and (iii) he must make available at County Hall, Chelmsford, and on

the website a notice setting out the reasons why it is impracticable to defer the decision.

Where such a decision is taken by a decision making body , it must be taken in public.

#### **19.16 Special Urgency Relating to Key Decisions**

If by virtue of the date by which a decision must be taken Rule 19.15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of:

- (i) the Chairman of the Corporate Policy and Scrutiny Committee; or
- (ii) if there is no chairman of the committee, or if the chairman of the committee is unable to act, then the agreement of the Chairman of the Council, or
- (iii) in his absence, the Vice-Chairman of the Council;

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

As soon as reasonably practicable after agreement has been obtained a notice must be made available at County Hall, Chelmsford, and on the Council's website setting out the reasons that the matter is urgent and cannot reasonably be deferred.

#### **19.17 Report to Council where the Key Decision procedure is not followed**

If an executive decision has been made and not treated as a key decision and the relevant overview and scrutiny committee is of the opinion that the decision should have been treated as a key decision, the committee may require the Cabinet to submit a report to the Council within such reasonable period as the Committee may specify.

The report to Council will set out the decision and the reasons for the decision, the decision maker by which the decision was made, and if the Leader is of the opinion that it was not a Key Decision, the reasons for that opinion.

#### **19.18 Report on special urgency decisions**

The Leader must submit reports to the Council at such intervals as may be determined but not less than annually on the Cabinet decisions taken in the circumstances set out in Rule 19.16 (special urgency) during the period since the last report was submitted to Council. The report will include the particulars of each decision so taken and a summary of the matters in respect of which each decision was made. If no such Cabinet decisions have taken place, then no such report is necessary.

## **19.19 Record of Decisions**

After any meeting of the Cabinet (or of its committees, if any) whether held in public or private, the Proper Officer or, where no officer was present, the person presiding at the meeting, will produce and publish a record of every decision, including Key Decisions and non Key Decisions, taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting, any interest declared in relation to the matter decided by any member of the decision-making body which made the decision and in respect of any declared interest a note of any dispensation granted by the Head of Paid Service.

## **19.20 Recording of decisions made by individuals**

- (1) As soon as reasonably practicable after an executive decision has been taken by an individual Member of the Cabinet, he will prepare, or instruct the Proper Officer to prepare, a record of the decision, which includes a record of the decision including the date it was made, a statement of the reasons for it, any alternative options considered and rejected, a record of any conflict of interest declared by any Member of the Cabinet who is consulted by the decision-maker and in respect of any interest declared a note of any dispensation granted by the Head of Paid Service.
- (2) As soon as reasonably practicable after an officer has made a decision delegated to the officer by the Council or any of its committees or sub-committees, or by the Cabinet or a Member of the Cabinet then the decision must be recorded if
  - (a) it relates to the discharge of a function which for the time being is the responsibility of the Executive; or
  - (b) it is a decision which is not the responsibility of the Executive and the effect of the decision is:
    - (i) to grant a permission or licence; or
    - (ii) to affect the rights of an individual; or
    - (iii) to award a contract or incur expenditure which materially affects that relevant local government body's financial position.
- (3) The record prepared under 19.20(2) above must be produced by or on behalf of the officer concerned and must include a record of the decision including the date it was made, a statement of the reasons for it, any alternative options considered and rejected, a record of any conflict of interest declared by any Member of the Cabinet who is consulted by the officer and in respect of any interest declared a note of any dispensation granted.
- (4) The provisions of Rules 19.7 and 19.8 (inspection of documents after meetings) will also apply to the making of decisions by individual

Members of the Cabinet and decisions taken by Officers which are required to be recorded. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

## **19.21 Additional rights of access to documents for members of local authorities**

Any document which is in the possession or under the control of the executive of a local authority and contains material relating to any business to be transacted at a public meeting must be available for inspection by any Member for at least five clear days before the meeting except that where the meeting is convened at shorter notice, such a document must be available when the meeting is convened and when an item is added to the agenda at shorter notice such a document must be available for inspection when the item is added to the agenda.

Any document which is in the possession or under the control of the executive of a local authority and contains material relating to any business transacted at a private meeting or any decision made by an individual member or officer in accordance with executive arrangements must be available for inspection by any Member when the meeting concludes or immediately after the decision has been made and in any event within 24 hours of the conclusion of the meeting or the decision being made as the case may be.

The above does not require a document to be available for inspection if it appears to the Proper Officer that it discloses (a) exempt information of a description falling within Part 1 of Schedule 12A to the 1972 Act unless it is information of a description falling within paragraph 3 (except to the extent that the information relates to any terms proposed or to be proposed by the Authority in the course of negotiations for a contract) or paragraph 6; or (b) advice provided by a political adviser or assistant.

## **19.22 Overview and Scrutiny Committees' access to documents**

### **19.22.1 Rights to copies**

Subject to Rule 19.22.2, a member of an Overview and Scrutiny Committee (including any sub-committees) will be entitled to copies of any document which is in the possession or under the control of the Cabinet and which contains material relating to:

- (i) any business that has been transacted at meetings of the Cabinet (or its committees, if any); or
- (ii) any decision that has been taken by an individual Member of the Cabinet or an officer in accordance with executive arrangements.

The Cabinet must provide such document as soon as reasonably practicable and in any case no later than 10 clear days after the request is received. Where Cabinet determines that the member is not entitled to a copy of the document or part thereof it must provide the overview and scrutiny committee with a written statement setting out its reasons for that decision.

### **19.22.2 Limit on rights**

A member of an Overview and Scrutiny Committee will not be entitled to:

- (i) any document that is in draft form; or
- (ii) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision the committee is reviewing or scrutinising or intending to scrutinise; or
- (iii) the advice of a political adviser.

## **20. Overview and Scrutiny Committee Procedure Rules**

### **20.1 Overview and Scrutiny Committees**

The Council will establish the Overview and Scrutiny Committees set out in Article 9 and will make appointments to them from time to time.

### **20.2 Membership and Substitutes**

Any Member, except Members of the Cabinet, may be a member of an Overview and Scrutiny Committee.

No Member may be involved in scrutinising a decision which they have been directly involved in taking.

A Deputy to a Cabinet Member should not serve on an Overview and Scrutiny Committee whose remit includes scrutiny of that Cabinet Member's portfolio.

A Deputy who is a Deputy to the Leader or who has a cross cutting role shall not serve as a member of an Overview and Scrutiny Committee.

A person who has served as a Cabinet Member should not serve on an Overview and Scrutiny Committee which scrutinises work covered by that person within the last year.

An Overview and Scrutiny Committee or Task and Finish Group may co-opt persons who are not members of the authority, but such persons are not



entitled to vote, unless they are entitled to vote in accordance with paragraph 20.3 below.

### **20.3 Education Representatives**

The People and Families Policy and Scrutiny Committee dealing with education matters shall include in its membership the following voting representatives:

- (i) One Church of England diocese representative;
- (ii) One Roman Catholic diocese representative; and
- (iii) Two parent governor representatives representing any constituency determined by the Committee from time to time.

The representatives shall not vote on matters other than those relating to education, though they may stay in the meeting and speak.

The Corporate Policy and Scrutiny Committee will include the above representatives in their membership when dealing with education matters. The representatives may speak and vote on such matters.

### **20.4 Meetings**

In addition to ordinary meetings, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman, by any members of the committee or by the proper officer if he considers it necessary or appropriate.

### **20.5 Public Speaking Procedure**

At the start of every Ordinary meeting of the Cabinet and Scrutiny Committees there shall be a period of up to 15 minutes to enable members of the public to make representations on an item on the Agenda for that meeting.

The Procedure for public speaking is as set out in 17.5.2 above.

### **20.6 Quorum**

The quorum for an Overview and Scrutiny Committee shall be one quarter of the membership.

### **20.7 Chairman**

At its annual meeting the Council shall elect a Chairman of each Overview and Scrutiny Committee.

The Council will normally elect the Leader of the largest Opposition group as Chairman of the Corporate Policy and Scrutiny Committee; unless there is not one such group but two or more opposition groups with equal numbers of

members, in which case the Council will elect the Chairman from the Leaders of each of those groups each year in alphabetical order by Group name.

## **20.8 Work Programmes**

Overview and Scrutiny Committees will be responsible for setting their own work programme which exercises the functions as conferred by Section 21 of the Local Government Act 2000 and set out in Article 9 of this Constitution.

In doing so they shall take into account views of members of that committee who are not Members of the largest political group on the Council.

## **20.9 Agenda Items**

Any member of an Overview and Scrutiny Committee or Task and Finish Group shall be entitled to give notice to the Proper Officer that he wishes an item relevant to the functions of the Committee or Task and Finish Group to be included on the agenda for the next available meeting of the Committee or Task and Finish Group. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.

At each Overview and Scrutiny Committee meeting members of the relevant Overview and Scrutiny Committee can suggest additions for that Committee's work programme.

The Overview and Scrutiny Committee will add the item to the agenda and may either:

- (i) commission work to commence immediately;
- (ii) request a scoping document to be prepared to assist the decision; or
- (iii) reject the suggestion.

Any member can write to the Head of Democracy and Transparency giving an outline of the item and issue to be scrutinised and the reasons. This will then be placed on the agenda of the next meeting of the Scrutiny Board for consideration for allocation to the appropriate Overview and Scrutiny Committee. The Scrutiny Board may recommend that the item be:

- (i) given priority over other items; or
- (ii) placed on the pending list; or the Scrutiny Board may reject the request.

## **20.10 Policy Review and Development**

The role of Overview and Scrutiny Committees in relation to the development of the Council's Budget and the Policy Framework is set out in detail in the Budget and the Policy Framework Procedure Rules.

In relation to the development of the Council's approach to other matters not forming part of its Budget and the Policy Framework, Overview and Scrutiny

Committees may make proposals to Cabinet insofar as they relate to matters within their terms of reference.

Overview and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask contributors and witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors, contributors and witnesses a reasonable fee and expenses for doing so.

Overview and Scrutiny Committees conduct a scrutiny and/or policy review in seven stages, as follows:

- Stage 1      Developing the Work Programme
- Stage 2      Scoping the Inquiry
- Stage 3      Collecting contributions and evidence
- Stage 4      Considering contributions and evidence
- Stage 5      Producing a report and communicating recommendations
- Stage 6      Receiving and dealing with feedback
- Stage 7      Monitoring.

#### **20.11 Reports from Overview and Scrutiny Committees**

Once it has formed recommendations on proposals for development, an Overview and Scrutiny Committee will prepare a formal report and submit it to the proper officer for consideration by the Cabinet (if the proposals are consistent with the existing Budget and the Policy Framework), or to the Council through the Cabinet if the proposals would require a departure from or a change to the agreed budget and policy framework.

If an Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet, as appropriate, then up to one minority report may be prepared and submitted for consideration with the report.

The Council or Cabinet shall consider the report of an Overview and Scrutiny Committee within one month of it being submitted to the Proper Officer or at the next available meeting.

#### **20.12 Consideration by the Cabinet**

Where an Overview and Scrutiny Committee prepares a report for consideration by the Cabinet in relation to a matter where the Leader or the Council has delegated decision making power to another Cabinet Member, then the Overview and Scrutiny Committee will submit a copy of their report to him for consideration. At the time of doing so, the Overview and Scrutiny Committee shall serve a copy on the Proper Officer. The Cabinet Member must consider the report and respond in writing to the Overview and Scrutiny

Committee within four weeks of receiving it. A copy of his written response to it shall be sent to the Proper Officer and the Leader. The Cabinet Member will also attend a further meeting of the Overview and Scrutiny Committee to present his response.

Only one report every month may be submitted by each Overview and Scrutiny Committee to the Cabinet.

### **20.13 Attendance of Members and Officers**

An Overview and Scrutiny Committee may require any Member of the Cabinet or senior officer to attend before it to explain in relation to matters within their remit:

- i) any particular decision or series of decisions; and
- ii) the extent to which the actions taken implement Council policy.

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

Where any Member or officer is required to attend an Overview and Scrutiny Committee under this provision, the chairman of that committee will inform the Proper Officer. The Proper Officer shall inform the Member or officer in writing giving reasonable notice of the meeting at which he is required to attend. The notice will state the nature of the item on which he is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the Member or officer arrange an alternative date for attendance to take place within a maximum of seven days from the date of the original request.

### **20.14 Attendance by Others**

An Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 20.13 above to address it, discuss issues of local concern and/or answer questions.

### **20.15 Task and Finish Groups**

Committees may appoint sub-committees known as Task and Finish Groups to which political proportionality need not be applied.

No member of Cabinet shall be appointed as a member of a Task and Finish Group.

A decision on whether a policy and scrutiny review will be carried out by the Committee or a Task and Finish Group will be made as part of the work on the scoping document.

The Committee may make a decision about the make-up of the group or volunteers sought subsequently.

Reports of Task and Finish Groups are developed by the Scrutiny Officer in consultation with its Chairman and approved by the full group.

Where it is not possible to reach a consensus, attempts will be made to reflect minority views within the report but there is no provision for minority reports.

Task and Finish Group reports shall be reviewed by the commissioning committee which will decide whether to ratify the findings and/or recommendations.

Paragraphs 20.13 (Attendance of members and officers) and 20.14 (Attendance by others) shall apply to Task and Finish Groups in the same way as they apply to Committees.

## **21. Health Overview, Policy and Scrutiny Committee Procedure Rules**

### **21.1 Health Overview, Policy and Scrutiny Committee**

The Health Overview, Policy and Scrutiny Committee has the roles and functions set out in Article 10 of this Constitution.

The Health Overview, Policy and Scrutiny Committee may form a joint committee with any other Health Overview, Policy and Scrutiny Committee appointed at another local authority.

### **21.2 Membership and Substitutes**

Any Member, except a Member of Cabinet, may be a Member of the Health Overview, Policy and Scrutiny Committee, or Overview and Scrutiny Panel.

No Member may be involved in scrutinising a decision which he has been directly involved in taking.

Deputies to Cabinet Members should not serve on a Health Overview, Policy and Scrutiny Committee that scrutinises the work undertaken by that Cabinet Member.

Where possible named substitutes should be used for ongoing reviews. However, if a Member cannot obtain a named substitute then another member can be substituted.

All apologies for absence and substitutes must be notified to the Chairman and Governance Officer at least five minutes before the start of the meeting.

A Health Overview, Policy and Scrutiny Committee and Panel may include persons who are not Members of the Council, but any such person is not entitled to vote at any such meeting of the Committee or Panel on any question which falls to be decided at that meeting.

### **21.3 Chairmanship**

At its annual meeting the Council shall elect a Chairman of the Health Overview, Policy and Scrutiny Committee.

The Chairman of the Overview and Scrutiny Panel shall be determined by the principle of majority interest, but where a multiplicity of local authorities is involved, the decision will rest with the Committee involved.

### **21.4 Meetings**

In addition to ordinary meetings, extraordinary meetings may be called from time to time as and when appropriate. A Health Overview, Policy and Scrutiny

Committee meeting may be called by the Chairman, by any members of the committee or by the proper officer if he considers it necessary or appropriate.

The Health Overview, Policy and Scrutiny Committee and Panels will conduct its business in accordance with the Standing Orders of the Council and the Access to Information Procedure Rules as contained within Part 4 of this Constitution.

Each meeting shall be held in public unless the nature of the business is such that the press and public must be excluded or the Committee or Panel determine that the press or public should be excluded in accordance with the Access to Information Procedure Rules.

### **21.5 Public Speaking Procedure**

At the start of every Ordinary meeting of the Cabinet and Scrutiny Committees there shall be a period of up to 15 minutes to enable members of the public to make representations on an item on the Agenda for that meeting.

The Procedure for public speaking is as set out in 17.5.2 above.

### **21.6 Quorum**

The quorum for a Health Overview, Policy and Scrutiny Committee shall be one quarter of the membership.

### **21.7 Work Programmes**

The Health Overview, Policy and Scrutiny Committee will be responsible for setting its own work programme and in doing so shall take into account views of members on the Committee who are not Members of the largest political group on the Council.

### **21.8 Attendance of Members and Officers**

A Health Overview, Policy and Scrutiny Committee or Panel may require any Member of the Cabinet or senior officer to attend before it to explain in relation to matters within their remit:

- (i) any particular decision or series of decisions; and
- (ii) the extent to which the actions taken implement Council policy;

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

Where any Member or officer is required to attend a Health Overview, Policy and Scrutiny Committee or Panel under this provision, the Chairman of the Committee will inform the Proper Officer. The Proper Officer shall inform the Member or officer in writing giving reasonable notice of the meeting at which he is required to attend. The notice will state the nature of the item on which he is required to attend to give account and whether any papers are required

to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, the Health Overview, Policy and Scrutiny Committee or Panel shall in consultation with the Member or officer arrange an alternative date for attendance to take place within a maximum of seven days from the date of the original request.

## **21.9 Attendance by Others**

A Health Overview, Policy and Scrutiny Committee may invite people other than those people referred to in paragraph 21.8 above to address it, discuss issues of local concern and/or answer questions.

## **21.10 Overview and Scrutiny Panels**

A Health Overview, Policy and Scrutiny Committee may appoint one or more sub-committees known as an Overview and Scrutiny Panel(s), and may arrange for the discharge of any of its functions by any such Panel.

The Overview and Scrutiny Panel shall be responsible for each Scrutiny Study and may be supported by officers.

The Panel shall submit their reports to the relevant Committee.

The Panels will comprise of five or six Members and in exceptional cases, may consist of the full Health Overview, Policy and Scrutiny Committee.

All non-executive Members in the Statutory Authorities, Boroughs, City and Districts are eligible to serve on a Panel.

## **21.11 Guidance for Investigation and Reporting (specifically applying to Overview and Scrutiny Committees and their Panels)**

All reports will be researched and evidence based. They will contain details of objectives, methodology, contributions and evidence and a discussion-based formula, with a formal section for recommendations for action. This applies whether reports are produced in-house or via an external consultant or body.

The objectives of the report and the contribution or evidence to be required of the NHS or any local government department will be discussed with the NHS or relevant local authority departments before any decisions are finalised.

Contributions or evidence sought from the public will include contributions from the Patient Advice and Liaison Services (PALS) and Health Watch Essex, in



addition to the general public, by means of a public notice. Other groups might be invited as appropriate.

Matters related to named patients' treatment or to named staff must be excluded from Panel or Committee reports. The scrutiny process does not take the place of an individual complaints procedure or as an alternative to making a formal complaint.

Recommendations produced at the end of a scrutiny study will be submitted to the relevant Committee(s) and then to a relevant NHS body or bodies and other appropriate bodies. NHS bodies have a statutory obligation to send their response to the Committee(s) within a 12-week consultation period.

## **21.12 Health Service Variations**

The Committee fulfils a strategic role, looking at major issues which affect the whole or large parts of the County.

Any service variations proposed by a health body covering an area wholly or partly within the county boundary of Essex will be considered in the first instance by the Secretary of the Essex Health Overview, Policy and Scrutiny Committee. That officer has been deputed by the Health Overview, Policy and Scrutiny Committee to act as its "gatekeeper". The Health Overview, Policy and Scrutiny Committee has agreed that variations will be handled in one of the following ways:

- (i) referred to the Essex Health Overview, Policy and Scrutiny Committee;
- (ii) referred to joint Health Overview and Scrutiny Committee of Essex and other appropriate Health Overview and Scrutiny Committees;
- (iii) referred to an appropriate Overview and Scrutiny Committee of the Council; or
- (iv) responded to by the Secretary of the Health Overview, Policy and Scrutiny Committee and handled as a non-substantial variation not requiring a Member decision under the terms of the health scrutiny legislation. Any action taken under this heading is reported to the Essex Health Overview, Policy and Scrutiny Committee quarterly for information.

Any service variation requiring consideration across the East of England region will be considered by a Joint Overview and Scrutiny Committee set up under terms of reference agreed by the Regional Health Chairs Forum.

Any joint committee set up under this paragraph has the associated delegated powers provided to it by its appointing authority to act on behalf of its constituent authorities.

## **22. Officer Employment and Disciplinary Procedure Rules**

### **22.1 Recruitment and Appointment**

#### **22.1.1 Declarations**

The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Member or officer of the Council; or of the partner of such persons, or in any other close personal relationship with them.

No candidate so related to a Member or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him.

#### **22.1.2 Seeking support for appointment**

The Council will disqualify any applicant who directly or indirectly seeks the support of any Member for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

No Member will support any person for any appointment with the Council.

### **22.2 Recruitment of Head of Paid Service and Chief Officers**

1. Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council:
  - (i) will draw up a statement specifying:
    - the duties of the officer concerned;
    - any qualifications or qualities to be sought in the person to be appointed;
  - (ii) shall make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - (iii) shall make arrangements for a copy of the statement mentioned in (i) above to be sent to any person on request.
2.
  - (1) Where a post has been advertised as provided in 1. above, the Council shall –
    - (a) interview all qualified applicants for the post, or
    - (b) select a shortlist of such qualified applicants and interview those included on the shortlist.
  - (2) Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with 1. above.

### **22.3 Appointment of Head of Paid Service**

Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Senior Management Employment Committee.

Full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any Member of the Cabinet.

### **22.4 Appointment of Chief Officers and Deputy Chief Officers**

The Senior Management Employment Committee may appoint Deputy Chief Officers.

A Deputy Chief Officer is an officer who reports to an officer who reports to the Chief Executive.

An offer of employment as a Chief Officer or a Deputy Chief Officer shall only be made where no well-founded objection from any Member of the Cabinet has been received.

### **22.5 Other Appointments**

#### **22.5.1 Officers below Deputy Chief Officer**

Appointment of officers below Deputy Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his nominee, and may not be made by Members.

#### **22.5.2 Assistants to Political Groups**

Appointment of an assistant to a political group pursuant to section 9 of the Local Government and Housing Act 1989 shall be made in accordance with the wishes of that political group.

### **22.6 Disciplinary Action**

#### **22.6.1 Dismissal of Statutory Officers**

(1) In the following paragraphs—

- (a) 'the 2011 Act' means the Localism Act 2011;
- (b) 'chief finance officer', 'disciplinary action', 'head of the authority's paid service' and 'monitoring officer' have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
- (c) 'independent person' means a person appointed under section 28(7) of the 2011 Act;

- (d) 'local government elector' means a person registered as a local government elector in the register of electors in the authority's area in accordance with the Representation of the People Acts;
  - (e) 'the Panel' means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
  - (f) 'relevant meeting' means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
  - (g) 'relevant officer' means the chief finance officer, head of the authority's paid service or monitoring officer, as the case may be.
- (2) A relevant officer may not be dismissed by an authority unless the procedure set out in paragraph 22.6.1 is complied with.
  - (3) The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
  - (4) In paragraph 3 "relevant independent person" means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.
  - (5) Subject to paragraph 6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with the following priority order—
    - (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
    - (b) any other relevant independent person who has been appointed by the authority;
    - (c) a relevant independent person who has been appointed by another authority or authorities.
  - (6) An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 5 but may do so.
  - (7) The authority must appoint any Panel at least 20 working days before the relevant meeting.
  - (8) Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular—
    - (a) any advice, views or recommendations of the Panel;
    - (b) the conclusions of any investigation into the proposed dismissal; and
    - (c) any representations from the relevant officer.
  - (9) Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

### **22.6.2 Officers below Deputy Chief Officer**

Members will not be involved in the disciplinary action against any officer below a Deputy Chief Officer except where such involvement is necessary for

any investigation or inquiry into alleged misconduct. The Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to members in respect of disciplinary action.

## **22.7 Dismissal**

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

## **23. Technical Appendix: Council Procedure Rules Relating To Staff (Local Authorities (Standing Orders) (England) Regulations 2001)**

These Council Procedure Rules relating to Staff shall be read in conjunction with the Officer Employment and Disciplinary Procedure Rules and those delegated functions concerning the appointment and dismissal of staff as set out within Part 4 of this Constitution.

### **23.1 Meanings**

In this Council Procedure Rule -

“the 1989 Act” means the Local Government and Housing Act 1989;

“the 2000 Act” means the Local Government Act 2000;

“disciplinary action” has the same meaning as the Local Authorities (Standing Orders) (England) Regulations 2001;

“Cabinet” and “Leader” have the same meanings as “Executive” and “Executive Leader” have in Part II of the 2000 Act;

“member of staff” means a person appointed to or holding a paid office or employment under the Council; and

“proper officer” means an officer appointed by the Council for the purposes of the provisions in this Part, the Executive Director for Strategy, Transformation and Commissioning Support has been so designated.

### **23.2 Appointments and Dismissals**

Subject to below and paragraph 23.7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Council must be discharged, on behalf of the Council, by the officer designated under section 4(1) of the 1989 Act (designation and reports of Head of Paid Service) as the Head of Paid Service or by an officer nominated by him.

The above paragraph shall not apply to the appointment or dismissal of, or disciplinary action against;

- (i) the officer designated as the Head of Paid Service;
- (ii) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
- (iii) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
- (iv) a deputy chief officer within the meaning of section 2(8) of the 1989 Act;  
or
- (v) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as the head of the authority's paid service, the authority must approve that appointment before an offer of appointment is made to that person.

Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority's paid service, as the authority's chief finance officer, or as the authority's monitoring officer, the authority must approve that dismissal before notice is given to that person. (Note: This paragraph is included in the Constitution as required by law, but at Essex County Council there is no committee, sub-committee or officer which is authorised to discharge this function.)

Where a committee or a sub-committee of the Council is discharging, on behalf of the Council, the function of the appointment or dismissal of any officer referred to in sub-paragraph (i) - (iv) of paragraph 23.2, at least one Member of the Cabinet must be a member of that committee or sub-committee.

### **23.3 Appointments**

In this paragraph, "appointor" means, in relation to the appointment of a person as an officer of the Council, the Council, or where a committee, sub-committee or officer is discharging the function of appointment on behalf of the Council, that committee, sub-committee or officer, as the case may be.

### **23.4 Appointments – Offers**

An offer of an appointment as an officer referred to in sub-paragraph (i) - (iv) of paragraph 23.2 must not be made by the appointor until –

- (i) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
- (ii) the proper officer has notified every member of the Cabinet of the authority of –
  - (a) the name of the person to whom the appointor wishes to make the offer;
  - (b) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
  - (c) the period within which any objection to the making of the offer is to be made by the Leader of the Council on behalf of the Cabinet to the proper officer; and
- (iii) either –
  - (a) the Leader of the Council has, within the period specified in the notice under sub-paragraph (ii)(c), notified the appointor that neither he nor any other member of the Cabinet has any objection to the making of the offer;
  - (b) the proper officer has notified the appointor that no objection was received by him within that period from the Leader; or
  - (c) the appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

### **23.5 Dismissal**

In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the authority, the authority, or where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.

### **23.6 Dismissal – Notice**

Notice of the dismissal of an officer referred to in sub-paragraph (i) – (iv) of paragraph 23.2 above must not be given by the dismissor until –

- (i) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considered are relevant to the dismissal;
- (ii) the proper officer has notified every Member of the Cabinet of the authority of –
  - (a) the name of the person who the dismissor wishes to dismiss;
  - (b) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and

- (c) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the proper officer; and
- (iii) either -
  - (a) the Leader has, within the period specified in the notice under subparagraph (ii)(c) above, notified the dismissor that neither he nor any other member of the Cabinet has any objection to the dismissal;
  - (b) the proper officer has notified the dismissor that no objection was received by him within that period from the Leader; or
  - (c) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

**23.7** Nothing in paragraph 23.2 shall prevent a person from serving as a member of any committee or sub-committee established by the Council to consider an appeal by -

- (i) another person against any decision relating to the appointment of that other person as a member of staff of the Council; or
- (ii) a member of staff of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.



**Part 5**

**Codes of Conduct**

# **Localism Act 2011**

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

### **Local Government Association Model Councillor Code of Conduct 2020**

#### **24.1 Joint statement**

- 24.1.1 The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.
- 24.1.2 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.
- 24.1.3 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.
- 24.1.4 This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

#### **24.2 Introduction**

- 24.2.1 The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.
- 24.2.2 All councils are required to have a local Councillor Code of Conduct.
- 24.2.3 The LGA will undertake an annual review of this Code to ensure it continues to be fit for purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National

Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

### **24.3 Definitions**

24.3.1 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 subcommittee 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”.

24.3.2 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.

### **24.4 Purpose of the Code of Conduct**

24.4.1 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.

### **24.5 General principles of councillor conduct**

24.5.1 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.

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

24.5.3 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.

24.5.4 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.

## **24.6 Application of the Code of Conduct**

24.6.1 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.

24.6.2 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;

24.6.3 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.

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

24.6.5 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.

## **24.7 Standards of councillor conduct**

24.7.1 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.

## 24.8 General Conduct

### 24.8.1 Respect

#### As a councillor:

- i. **I treat other councillors and members of the public with respect.**
- ii. **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.**

24.8.2 Respect means politeness and courtesy in behaviour, speech, and in the written word.

24.8.3 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.

24.8.3 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.

24.8.3 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.

## 24.9 Bullying, harassment and discrimination

#### As a councillor:

- i. **I do not bully any person.**
- ii. **I do not harass any person.**
- iii. **I promote equalities and do not discriminate unlawfully against any person.**

24.9.1 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.

24.9.2 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.

24.9.3 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.

24.9.4 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.

## **24.10 Impartiality of officers of the council**

**As a councillor:**

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

24.10.1 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.

## **24.11 Confidentiality and access to information**

**As a councillor:**

**i. 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 have received the consent of a person authorised to give it;**
- **I am required by law to do so;**
- **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**
- **the disclosure is:**
  - (i) reasonable and in the public interest; and**
  - (ii) made in good faith and in compliance with the reasonable requirements of the local authority; and**
  - (iii) I have consulted the Monitoring Officer prior to its release.**

- ii. **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.**
- iii. **I do not prevent anyone from getting information that they are entitled to by law.**

24.11.1 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.

## **24.12 Disrepute**

**As a councillor:**

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

24.12.1 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.

24.12.2 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.

## **24.13 Use of position**

**As a councillor:**

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

24.13.1 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.

## **24.14 Use of local authority resources and facilities**

**As a councillor:**

- i. **I do not misuse council resources.**
- ii. **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.**

24.14.1 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.

24.14.2 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.

## **24.15 Complying with the Code of Conduct**

**As a Councillor:**

- i. **I undertake Code of Conduct training provided by my local authority.**
- ii. **I cooperate with any Code of Conduct investigation and/or determination.**
- iii. **I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- iv. **I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

24.15.1 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.

## **24.16 Protecting your reputation and the reputation of the local authority**

### **24.16.1 Interests**

**As a councillor:**

**I register and disclose my interests.**



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

24.16.3 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.

24.16.4 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.

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

## 24.17 Gifts and hospitality

### As a councillor:

- i. **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.**
- ii. **I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- iii. **I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

24.17.1 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.

## **Code of Conduct for Members – 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.

## Code of Conduct for Members – 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.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. 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.

| <b>Subject</b>   | <b>Description</b>   |
|--|--|
| <b>Employment, office, trade, profession or vocation</b> | Any employment, office, trade, profession or vocation carried on for profit or gain.   |
| <b>Sponsorship</b>                                       | Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.   |
| <b>Contracts</b>   | 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 -<br>(a) under which goods or services are to be provided or works are to be executed; and<br>(b) which has not been fully discharged. |
| <b>Land and Property</b>                                 | Any beneficial interest in land which is within the area of the council.<br>'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.   |
| <b>Licenses</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>                               | Any tenancy where (to the councillor's knowledge)—<br>(a) the landlord is the council; and<br>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.  |
| <b>Securities</b>  | Any beneficial interest in securities* of a body where—  |

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

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

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

**Table 2: Other Registrable Interests**

|  |
|--|
| <p>You must register as an Other Registerable Interest :</p> <ul style="list-style-type: none"> <li>a) any unpaid directorships</li> <li>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</li> <li>c) any body <ul style="list-style-type: none"> <li>(i) exercising functions of a public nature</li> <li>(ii) directed to charitable purposes or</li> <li>(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</li> </ul> </li> </ul> |
|--|

## **25. Protocol for Member/Officer Relations**

### **25.1 Introduction**

It is important that there should be a close working relationship between a Cabinet Member and the Chief Executive, Corporate Leadership Team, and Senior Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to give the impression that the relationship may impact upon any Officer's ability to deal impartially with that Member or other Members and party groups.

It is important that dealings between Members and Officers should observe normal standards of courtesy.

This can be summed up as 'friendly, but not friends'.

Members and Officers must not seek to take unfair advantage of their position.

This protocol seeks to set out the standards that the County Council expects Members and Officers to follow. Whilst the Protocol cannot be comprehensive it sets out guidance on some of the key issues that arise in those relationships.

The Protocol reflects the principles underlying the respective Codes of Conduct, which apply to Members and Officers and the Principles of Public Life.

The shared objective of these codes is to enhance and maintain the integrity of local government, therefore demanding very high standards of personal conduct.

### **25.2 Member Conduct**

The principles of public life are set out elsewhere in the constitution and set out the general principles govern the conduct of Members. More detailed rules are set out in the Code of Conduct.

### **25.3 Reports to Cabinet**

In accordance with the Constitution, the Leader of the Council is responsible for the Cabinet agenda and most items submitted to Cabinet will be in the name of the relevant Cabinet Member. However, there will be occasions when the Chief Executive, a Statutory Officer or a member of the Corporate Leadership Team will need to submit a report to Cabinet (for example, by Statutory Officers in the discharge of their legal duties). The named author is fully responsible for the contents of any report submitted in their name.

### **25.4 Decision Making**

Decision making by the Council is regulated by law. Courts are generally concerned to see that a decision is properly made and has been taken:

- by someone who was authorised to make it
- following an appropriate process; and
- taking account of all relevant information

Other than this the courts will normally respect the decision taken by the council as Parliament has given the local authority the right to make the decision. Any failure to follow the above when making a decision could lead to the decision being quashed or in some circumstances an injunction being granted or damages being awarded against the council.

Decisions may only be taken by an individual or group of individuals authorised by the law or the constitution to take a decision. If a decision is taken by the wrong person/body or in the wrong way it may be invalid or vulnerable to being overturned by a court at a later date. Cabinet Members may only take valid decisions by a properly recorded decision after considering a report including legal and financial advice.

The Cabinet, Committees and Council may only take decisions at a properly constituted meeting.

Outside formal decisions, Members may express a view about how a policy may be implemented but Members and Officers must remember that unless a Member has made a formal decision it is Officers who have taken the actual decisions and who are accountable for them.

All Members and Senior Officers must understand the parameters of the authority they exercise and recognise that acting outside those parameters leaves the authority open to legal liability and/or public criticism. For Members, such actions may amount to a breach of the Code of Conduct and for Officers, may lead to disciplinary proceedings.

When Members take decisions, they are accountable for the decisions they make, but Officers are accountable for the information they provide to Members and for the advice upon which the decision is based. Paragraph 25.4.4 deals with Officer advice.

If the Chief Executive and/or the Monitoring Officer consider that a decision is unlawful or in breach of existing Council policy or procedure, they will refer the matter back to the relevant Cabinet Member asking them to reconsider. Ultimately, and in a case of serious disagreement, the Monitoring Officer is under a legal duty to report any likely breach of the law to a meeting of the full Cabinet.

#### **25.4.1 Cabinet Members' role in decision making**

Individually, Cabinet Members may take decisions in accordance with those functions delegated to them, as set out in Part 3 of this Constitution and, with Officer advice, may express a strategic view as to the implementation of those decisions.



All formal decisions must be properly recorded, noting which Officers have provided advice in the taking of the decision. The decision must then be published unless the decision is exempt for publication for some lawful reason.

Any views expressed by Members should be to an Officer of appropriate seniority and they must not direct junior employees to take a particular approach.

It is the responsibility of the Chief Executive and these Senior Officers to manage the implementation of policy.

Cabinet Members may take decisions on the resourcing of Council services and on the purchase of goods or services provided they are within their delegated authority and in accordance with the budget and policy framework.

The management of such allocated resources and how they will be applied is a matter for the Chief Executive, Corporate Leadership Team members or Senior Officers subject to any policy or budgetary constraints imposed by the Council or Cabinet.

#### **25.4.2 Deputy Cabinet Members etc**

Deputy Cabinet Members or Members who are undertaking project or other work on behalf of Cabinet Members, have no formal decision making power and any formal decision must be made by the Cabinet or Cabinet Member in the usual way. They may ask – but not require - Officers to take certain action, although they should discuss any significant request with the sponsoring Cabinet Member.

#### **25.4.3 Officer Advice**

Formal decisions taken by the Council, by Committees, by the Cabinet or by any Cabinet Member must be based on advice and information provided by Officers. That advice will normally be recorded in writing in a report presented to the decision maker.

A Cabinet Member must always have the advice of the Monitoring Officer and Section 151 Officer when taking decisions.

Members are entitled to decide whether they require additional advice from the relevant service areas in respect of the particular issue to be addressed, provided that they have enough information to take a proper decision. The Cabinet Member must give Officers adequate opportunity to provide them with the advice on the issue prior to them taking the decision.

#### **25.5 Chairmen of Committees**

Chairmen of Committees do not have authority to take executive decisions or direct staff, but can expect Officers to work with them in discharging the

Committee's business. For example the Chairman may give their views concerning the agenda, actions to be taken in preparing the agenda and action to be taken as a result of Committee decisions. Officers will work with the Chairman to give effect to the Chairman's requirements.

If there is a situation where the Chairman wishes something to be done and an Officer does not feel able to act then the Chairman should raise the matter with the Chief Executive, a Corporate Leadership Team member or Director.

## **25.6 Officers**

Officers are responsible for the management of the Authority and ensuring the implementation of agreed policies.

Where Members give strategic direction in the exercise of their delegated authority, the Officer(s) directed is/are responsible for ensuring the prompt actioning of those instructions and should keep the Member updated as to progress in the carrying out of the necessary work.

Officers should always seek to assist any Members of the Council, but they may not go beyond the bounds of the authority given to them by their Senior Manager.

Officers should be aware of rules governing access to information set out in part 4 of the Constitution and within the operation of those rules, ensure that Members are properly informed about information to which they have a right of access. Officers should not use professional expertise to discourage or intimidate Members from pursuing lines of inquiry.

Officers must comply with the formally expressed policy of the Authority and must not allow their own personal or political opinions to interfere with their work.

## **25.7 Members' Influence**

Members who are not acting within their portfolio or on something commissioned by a Cabinet Member may raise issues with Officers and make suggestions in relation to them.

Those Members should not however expect Officers to have to implement suggestions made as individual Members have no decision making power in these circumstances.

Members should not seek to influence Officers below the level of Head of Service.

Members may not ask Officers to change their decision.

## **25.8 Raising Concerns**

Any Member who has a concern about the conduct or performance of an Officer, should tell the Chief Executive, a Corporate Leadership Team member or a Director about their concern. That Officer will decide what action to take. It should be noted, that if the concern relates to a failing in the Officer's performance, the Council's normal processes will be followed and in most cases, it will initially be appropriate for this to be dealt with by means of a discussion between a Senior Manager and the Officer concerned.

If an Officer is concerned about the conduct of a Member, they should report such concern to their Head of Service, the Chief Executive or Monitoring Officer. If an Officer is concerned about another Officer, that concern should be referred to a relevant Senior Manager, not to a Member, in accordance with the terms of the Whistleblowing policy.

## **25.9 Members' role in recruitment**

Matters relating to the creation of a post, the appointment, conditions of service and dismissal of the Chief Executive, a member of the Corporate Leadership Team and any Officer directly reporting to them are matters for the Senior Management Employment Committee, as set out in Article 8 of the Constitution.

Matters relating to the creation of a post, the appointment, conditions of service and dismissal of posts below this level are for the Chief Executive. Members may not be involved in decision making, but they may for certain roles provide advice to the interview panel (N.B. Members will be involved with the appointment of political assistants if the council employs such persons).

Members must respect the fact that Officers act for the Council as a whole and must be politically neutral. The relationship between a Member and an Officer should not be so close as to call into question the Officer's political impartiality.

## **25.10 Officer Advice and Support to Political Groups**

There is statutory recognition for registered political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making body. Officers may properly be called upon to support and contribute to such deliberations by political groups.

The support provided by Officers can take many forms, ranging from a briefing meeting with a Cabinet Member or Chairman or an individual Member (either jointly or individually) prior to a meeting, to a presentation to a group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all registered political groups.

In providing Officer advice to Political groups, Members and Officers shall have regard to the following.

- (i) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. Officers should not normally be present at meetings, or parts of meetings, when matters of party business are to be discussed.
- (ii) Group meetings are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings are not Council decisions and should not be considered as such.
- (iii) Where Officers provide information and advice to a group meeting in relation to a matter of Council business, they will still need to provide all necessary information and advice to the decision maker when a formal decision is taken.
- (iv) The attendance of any Officers at a political group meeting does not confer any status on that meeting – it is still a political group.

Where an Officer attends a political group meeting they should not normally be expected to provide advice unless everyone present is an Officer or Member of the Council. Others are not bound by the Member Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Members only meeting.

Officers must respect the confidentiality of any political group discussions at which they are present and should not relay the content of any such discussion to a Member who is not a member of that political group.

Any particular cases of difficulty or uncertainty relating to Officer advice to party groups should be raised with the Chief Executive who will discuss them with the Leader of the relevant group.

Council resources (e.g. IT facilities, stationery, typing, printing, photocopying, transport, etc.) are provided to Members strictly to assist them in discharging their role as Members of the Council. Resources must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private party purposes or for purposes not directly related to Council business.

## **25.11 Members Access to Information and Council Documents**

Members may approach any Council Service and ask them to provide them with such information, explanation and advice (about the Service's functions) as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Service's activities to requests for specific information on behalf of a Constituent. Such approaches should normally be directed to the Head of Service or another Senior Officer of the Service concerned.

The legal right of Members to inspect Council documents is covered partly by statute and partly by the common law 'need to know'. These are summarised in the Access to Information Procedure Rules contained within part 4 of the Constitution (part19).

Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer.

Officers should ensure that they keep Members informed in relation to information regarding their division. Members are in many cases the first point of contact in the communities which they represent. It is therefore vital that County Members are informed about significant developments regarding their electoral division, before other groups and always before the press.

## **25.12 Correspondence**

Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of 'blind carbon copies' (bcc) should not be used.

Official letters on behalf of the Council are normally to be sent out under the name of the appropriate Officer, rather than under the name of a Member.

Sometimes it is appropriate for a letter to be sent from a Member (eg representations to a Government Minister or another politician), but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out under the name of the Member.

The Monitoring Officer should be asked for advice on significant letters which may create legal obligations or give rise to a 'legitimate expectation'.

## **25.13 Involvement of Local Members**

Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the areas affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council consults the public on a local issue, the local Members should be notified at the outset.

## **26. Members Allowances Scheme**

### **26.1 The Scheme**

Essex County Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003 and any subsequent amendments has made the following Scheme which shall have effect from 13 July 2022.

### **26.2 Definitions**

In this Scheme,

**'Approved Duties'** are those set out in Appendix 1;

**'Committee'** means, unless the context otherwise requires, a committee of the Council including the Cabinet;

**'Council'** means the Essex County Council;

**'Deputy Cabinet Member'** means a Member appointed by the Leader as a deputy to a Cabinet Member;

**'Sub-Committee'** means, unless the context otherwise requires, a sub-committee, group, panel or Task and Finish Group formally constituted by a committee;

**'The County of Essex'** means the ceremonial county of Essex (i.e. the area covered by Essex County Council and the two unitary authorities of Southend and Thurrock); and

**'year'** means a period of 12 months ending with 31 March.

### **26.3 Payment of Allowances**

Allowances shall be paid as set out in Appendix 2 to this Scheme.

### **26.4 Suspension of Allowances**

Where a Member has been convicted of any offence and has had been given a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine, the Council shall suspend any part of any Allowance from the date of sentence. Such suspension shall remain in force until such time as section 80 of the Local Government Act 1972 (disqualification for election and holding office as member of a local authority) takes effect. Where an application for leave to appeal or the appeal is finally disposed of or abandoned or succeeds by reason of the prosecution determining that the conviction and/or sentence should be quashed, or reduced so as to fall outside the remit of section 80, the Council shall reimburse to the Member those

amounts of allowance suspended to be included with the next available payment date.

## **26.5 Loss or damage to vehicles**

The Council shall not be responsible for any loss or damage to any vehicle whilst being used by a Member during the course of their duties or parked on the Council's property.

The Council shall provide limited insurance through the in house insurance fund to protect Members in certain circumstances against loss of their 'no claims bonus'. Broadly the insurance will provide payment where, as a result of using their vehicle on Approved Duties, Members have a claim or claims upon their own motor insurance and, without any fault on the part of the Member, suffer a loss of no claims bonus. The maximum amount payable to any one Member consequent upon loss of bonus arising from claims in any one year of insurance is £500.

## **26.6 Reimbursement of Dependent Carers costs**

Reimbursement of expenditure incurred by Members

- (i) in providing child care arrangements; and/or
- (ii) on professional care for elderly, sick or dependant relatives;

to facilitate their attendance at Approved Duties of the Council is provided in accordance with Appendix 2 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 subject to tax and national insurance accordingly.

Appendix 2 to this Scheme shall apply subject to any relevant regulations.

## **26.7 Part-Year Entitlements**

The entitlements of a Member to allowances where, in the course of a year, this Scheme is amended or that Member becomes, or ceases to be, a Member, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable shall be calculated in accordance with the proportion of the year for which the Member is eligible.

The term of office of a Member shall begin on the day on which the Member makes a declaration of acceptance of that office under Section 83(1) of the Local Government Act 1972 and shall end when they cease to be a Member.

## **26.8 Co-opted Members of Committees Allowances**

The four Education Co-opted Members may in accordance with the provisions of this Scheme claim travelling and subsistence allowances in respect of attendance at the People and Families Policy and Scrutiny Committee and

Corporate Policy and Scrutiny Committee, or any other Approved Duty authorised by those bodies.

Any Co-Optee to the Pension Strategy Board who is not an employee, officer or member of their appointing organisation and who is not otherwise entitled to payment for time spent on the role is entitled to claim an allowance in accordance with appendix 2 with respect to time spent attending meetings of the board and for such other duties as may from time to time be formally approved by the Pension Strategy Board.

Any person appointed as Independent Persons under the Localism Act 2011 and any person appointed as an Independent co-opted Member of the Audit, Governance and Standards Committee shall be entitled to receive a basic allowance of £750 per annum.

### **26.9 Members with a Disability**

Members with a disability which restricts their ability to access some types of transport may, to the extent agreed by the Audit, Governance and Standards Committee, claim for specific travel expenses according to their needs.

### **26.10 National Insurance and Social Security, Statutory Sick Pay and Income Tax**

Payment of allowances shall be subject to such deductions as may be statutorily required in respect of national insurance and social security and income tax and such information relating thereto as is reasonably required shall be provided on request.

In the event of sickness, Members shall provide such information as may reasonably be required to determine eligibility for statutory sick pay and shall, in any case, notify the Head of Democracy and Transparency immediately of any sickness which is likely to prevent any Approved Duty being undertaken.

### **26.11 Parental Leave**

Members are entitled to allowances in accordance with the parental Leave policy as set out at Appendix 3. Members are asked to notify the Head of Democracy and Transparency should arrangements relating to this policy need to be made. Members are not entitled to receive a special responsibility allowance and payment under this policy at the same time.

### **26.12 Election to Forego**

A Member may by notice in writing given to the Chief Executive elect to forego any part of his entitlement to an allowance under this Scheme.

### **26.13 Payments and Claims**



Payment of basic allowance, special responsibility allowances, co-optees allowance and parental leave allowance shall be made in instalments of one-twelfth of the amounts specified in the schedule at Appendix 2 as appropriate (subject to paragraph 26.4) on a monthly basis. Where a payment of one twelfth of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the Member receiving more than the amount to which, by virtue of Appendix 2, they are entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which they are entitled.

Claims for travelling and subsistence allowances should be submitted monthly via the Council's e-payroll system. Payment will be made direct to a Bank or Building Society account via BACS in accordance with the payment dates which will be notified from time to time.

Claims must be made via the e-payroll, completed in all particulars and backed up by receipts. Members must not claim any allowance unless they are satisfied that the amounts claimed are correct and the duty is an "Approved Duty" for the purpose of the payment of allowances in accordance with Appendix 1. Failure to supply receipts and appropriate detail will result in non-payment of claims. If in exceptional circumstances the necessary receipts or documentation could not be retained a written explanation to that effect should be included and payment may be made at the discretion of the Monitoring Officer or the Head of Democracy and Transparency.

All Members' claims must be checked and approved by the Monitoring Officer Head of Democracy and Transparency, or such other person as they may nominate. Claims made by Cabinet Members, the Chairman or Vice-Chairman, must also be approved by the Monitoring Officer or such other officer as the Monitoring Officer may nominate for this purpose.

Members may not make any claim for any expenses which they have not incurred themselves or which they have claimed or intend to claim from any other organisation.

Members may claim expenses only where they were incurred wholly, exclusively and necessarily in performing their duties for the Council.

A claim under this Scheme for an allowance under this scheme shall include, or be accompanied by, such statement as the council may from time to time required.

Members must make any claim for payment under this scheme promptly and in any event within four months of the date on which the duty in respect of the entitlement to the allowance arises is carried out. Claims submitted for duties undertaken more than four months previously will be rejected.

## **26.14 Record of Allowances Paid**

A record of the payments made by the Council to each Member shall be maintained in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003 and shall be published in accordance with the Regulations and on the Council's website.

#### **26.15 Publication of Scheme**

In accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003 as soon as practicable after the making or amendment of any scheme made under the Regulations arrangements shall be made for its publication within the Council's area.

#### **26.16 Indexation of Allowances**

The amount of basic allowance, special responsibility allowance and co-optee's allowance will be annually adjusted on 1 May each year (save in a year in which ordinary elections to the County Council take place when the changes shall take effect from the date upon which newly elected members take their office) in proportion with the change, since the last review, in the Public Sector Pay Index (excluding bonuses) published by the Office of National Statistics.

This clause shall cease to have effect on 11 July 2026.

#### **26.17 Date of Scheme**

This Scheme is made by the Council on 12 July 2022, with effect from 1 September 2022.

## Appendix 1

### Approved Duties

Subject to paragraphs (k) and (l) below, an **"Approved Duty"** is:

- (a) attendance at a meeting of the Council, or of any Committee or Sub-Committee or Joint Committee to which a Member has been appointed (this includes attendance by a named substitute at a meeting even if the member is not required to substitute for another Member);
- (b) attendance at a meeting of any Committee or Sub-Committee as the local Member and where the consent of the Chairman has been given in advance;
- (c) attendance at a meeting of any Committee or Sub-Committee to which a Member has not been appointed, subject to payment being limited to two such meetings per Member per month;
- (d) attendance by the Chairman of any Committee at a meeting of any Sub-Committee of that Committee, even if the Chairman is not a member of that Sub-Committee;
- (e) attendance at a meeting of any other body to which the Council makes appointments or nominations as set out in Appendix 3, or of any Committee or Sub-Committee of such a body, except where a claim can be made direct to that body;
- (f) any other meeting the holding of which is authorised by the Council, or a Committee or Sub-Committee, or a Cabinet Member, or a Committee Chairman, or a joint committee of the Council and one or more other authorities, or a sub-committee of such a joint committee, provided that
  - (i) where the authority is divided into two or more political groups, it is a meeting to which Members of at least two such groups have been invited;
  - (ii) if the authority is not so divided, it is a meeting to which at least two Members of the authority have been invited; and

including any locality briefing, site visit, inspection or similar duty, public consultation meetings on significant matters of policy or service change or attendance at an official opening when a Member is specifically required to attend as the Council's representative;

- (g) a meeting of any association of authorities of which the Council is a member (special arrangements apply for the Local Government Association see paragraph (i) (viii) below);
- (h) duties undertaken on behalf of the Council:

- (i) in connection with the discharge of any function of the Council conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises; or
  - (ii) in connection with arrangements made by the Council for the attendance of pupils at a special school;
- (i) any other duty approved by the Council, a Committee or Sub-Committee, or Cabinet Member, or Committee Chairman, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the Council, or of any of its Committees or Sub-Committees; but shall not include attendance at any meeting or any other duty undertaken as a member of a governing body of a school (other than a special school).
- (j) The following duties:
- (i) reasonable attendances in pursuance of the role and duties of Cabinet Member or a Deputy to a Cabinet Member;
  - (ii) reasonable attendances in pursuance of the role and duties of Committee Chairman;
  - (iii) reasonable attendances in pursuance of the roles and duties of the Leader of a registered political group;
  - (iv) attendance by Chairmen and Vice-Chairmen at agenda conferences for meetings of Committees or Sub-Committees;
  - (v) attendance at additional meetings by Chairmen and Vice-Chairmen with Chief or other officers to conduct business relevant to the work of their Committee or Sub-Committee;
  - (vi) attendance at seminars, study courses and similar activities that a Member is authorised to attend by the Council, or a Committee or Sub-Committee, or a Cabinet Member, or a Committee Chairman;
  - (vii) attendance as the local County member at town and parish council meetings or associations of such authorities; and
  - (viii) attendance as an Office Holder or member of an Executive where the Member receives a lump sum payment from the Local Government Association and travelling and subsistence allowances are not paid by the Association.
- (k) Notwithstanding any other provision of this scheme, the following are not approved duties and no payment shall be made unless the Member has the prior written authority of at least two of the Chief Executive, the Section 151 Officer or the Monitoring Officer:

- (i) where it involves travel outside the United Kingdom of Great Britain and Northern Ireland;
- (ii) where the total cost for the Member is estimated to exceed £500 when only one member is involved; or
- (iii) where the aggregate costs for all the Members is estimated to exceed £1,000 when more than one Member is involved.

Visits include attendance at conferences, seminars and external training courses and the cost of visits include all costs paid by the Council or claimable from it, including the cost of travel, hotel accommodation, conference or course fees and ancillary costs, such as car parking and subsistence.

Details travel approved under this paragraph will be published annually.

- (l) No travel or subsistence allowance shall be paid with respect to a meeting unless the Member has attended the majority of the meeting or for the whole of the discussion of the item in which a Member has a particular interest.

## Appendix 2

### Members Allowances Scheme

#### Basic Allowance

£13,730 per annum

(Substituted with £750 for an Independent Person and a Co-Opted Independent Member of the Audit, Governance and Standards Committee).

#### Special Responsibility Allowances

| Postholder  | Rate                             | Amount  |
|---|----------------------------------|---|
| Basic Allowance (75)  | -                                | £13,730   |
| Leader  | 450% of basic allowance          | £61,787   |
|   | As a % of the Leader's allowance |   |
| Deputy Leader   | 80%                              | £49,429   |
| Cabinet Member (8)  | 67%                              | £41,397   |
| Deputy to Cabinet Member (11)   | 25%                              | £15,447   |
| Scrutiny Board Chairman   | 30%                              | £18,536   |
| Committee Chairman (8)  | 25%                              | £15,447   |
| Leader of the largest opposition group  | 30%                              | £18,536   |
| (The SRA for the leader of the main opposition group will be split equally between two or more leaders of opposition groups for the duration of any period of time in which they have an equality of members in the group.) |                                  |   |
| Smaller opposition group leaders (for groups which include at least 5% of Members in their Group)   | 10%                              | £6,179  |
| Chairman of the Council   | 40%                              | £24,715   |
| Vice-Chairman of the Council  | 20%                              | £12,357   |
| Co-opted members of Pension Strategy Board (in accordance with paragraph 26.8)  |                                  | £17.95 per hour to include reasonable preparation time. |

#### Eligibility for more than one Special Responsibility Allowance

No Member shall be eligible to receive more than one Special Responsibility Allowance and a payment under the parental leave policy is treated as a Special Responsibility Allowance for this purpose.

### **Limit on the Number of Special Responsibility Allowances**

No more than eleven members may receive an allowance as a Deputy Cabinet Member.

### **Further clarification**

These allowances are intended to recognise the time devoted by Members to their work relating to the Council, including such inevitable calls on their time as meetings with constituents and political group meetings. It also covers incidental costs (such as the use of their homes, home computer and printer, postage and telephone calls including mobile 'phones) for which other provision is not made.

### **Telephone / E Mail**

Cabinet Members, the Chairman of the Council and the Leader of the Opposition may have access to a laptop and a mobile device. All other Members are entitled to a laptop.

No claims can be made for the cost of broadband connection, or telephone bills whether they are land line, mobile or both.

### **Stationery**

No claims can be made for the cost of printer cartridges, printer paper, envelopes, stamps, pens, files etc. or for any of these to be provided free of charge for use at home.

### **Travel Expenses**

For travel on Approved Duties Members and co-opted Members will be reimbursed at the rates set out below.

Travel by the member's own private car at the rates set for tax allowance purposes by the Inland Revenue for business travel. Currently these are 45p per mile for the first 10,000 miles and 25p per mile thereafter. This allowance is also payable for electric vehicles at the same rate. In addition 5p per mile can be claimed for carrying a fellow Member on a business journey.

Travel by motorcycle 24p per mile

Travel by own bicycle 20p per mile.

Travel expenses will be reimbursed for relevant journeys on Approved Duties between premises as agreed for tax purposes. Travel may not be claimed for journeys within their Division other than for the purpose of attending formal meetings.

When claiming mileage for using a motor vehicle, fuel VAT receipts must be provided; the receipt(s) should show that sufficient fuel to undertake the journey(s) was purchased prior to the journey(s) taking place. However, a Member who is registered for VAT and provides a copy of the relevant VAT Certificate to the Democratic Services Team can claim mileage without receipts.

### **Other travel expenses**

Parking fees, public transport fares will be reimbursed at cost, but only on production of a valid ticket or receipt - the cheapest available fare for the time of travel should normally be purchased.

### **Taxi**

Taxi fares will only be reimbursed on production of a valid receipt and if use of public transport or the Member's own car, motorcycle or bicycle is impracticable.

### **Air and Rail**

Air and rail travel other than within Essex or London should be booked in advance through officers to enable use of discounting arrangements and to ensure the most economical means of travel has been chosen for the journey. All rail travel must be Standard Class.

### **Air travel and travelling abroad**

Air travel is permissible where:

- a journey would take five hours or more by other forms of transport;
- where such travel is cheaper than other forms of transport;
- where it avoids the need for an overnight stay.

Air travel must be economy class. Members may upgrade to business class (not first class) only if:

- the total flight time is longer than four hours;
- the journey involves an overnight flight; or
- there are no economy seats available and it is not possible to travel on an alternative day when economy seats are available.

Travel expenses will only be reimbursed if claimed within four months.

### **Subsistence Expenses**

#### **Approved Duties outside of the County of Essex**

Subsistence can only be claimed for approved duties undertaken at locations outside of the County of Essex.



Subsistence will be paid at the same rates as those applying to officers. The rates currently applying are payable where a member is working for at least four hours including time travelling to and from the Member's normal place of residence, and which include the periods of the day specified below:

|  |              |
|--|--------------|
| Breakfast: duty starting before 7:30am             | Up to £5.00  |
| Lunch: duty including the period 12 noon to 2:30pm | Up to £10.00 |
| Dinner: duty ending after 8:30pm                   | Up to £20.00 |

Please note expenditure on alcohol will never be reimbursed and must not be claimed.

A valid receipt will need to accompany any claim.

Hotel accommodation should be booked through officers. Any other reasonably unavoidable costs related to overnight stays, other than subsistence, will be reimbursed on production of a receipt. Where hotel stays are necessary, hotel accommodation will be paid at the same rates applying to officers. At present these are:

|  |          |
|--|----------|
| Main Cities in UK<br>(Bristol, Birmingham, Cardiff, Edinburgh, Glasgow, Leeds, Liverpool, London (including Gatwick and Heathrow), Manchester, Newcastle, Plymouth and Reading). | £150.00  |
| Elsewhere in UK  | £100.00  |
| Foreign hotels – reasonable, but not luxury class  | 3 quotes |

(These rates determine how much members can claim for hotels booked themselves and are a guide where hotels are booked directly by the Council).

When staying in a hotel it is permissible to claim for certain relevant necessary incidentals such as business telephone calls and faxes against receipts when the equipment provided by the Council cannot be used.

Newspapers, bar drinks, mini bar, hotel video, health and fitness and laundry facilities cannot be claimed.

## Hospitality

Council funds should not normally be used for offering hospitality to third parties. If it is likely that a 'typical' member of the public would think that using Council funds to offer hospitality is inappropriate, then it probably is and should therefore not be offered.

In exceptional circumstances Members may be in a position where they are required to provide hospitality (e.g. buying lunch for the purpose of managing the reputation of the Council). The need to incur such expenses must be approved in advance by the authorising officer. In these circumstances there must be appropriate supporting information provided with the claim / P-Card which includes relevant receipts and demonstrates the authorisation given, the reasons for the need to offer hospitality, and

the names of those involved (both those of the external body offered the hospitality, and any County Council officers present). It is expected that the subsistence rates would normally apply, although there may be occasions when a higher level of hospitality is appropriate. In these cases, the same rate as that applying to officers is permitted which is currently a maximum of £40 per head, including alcohol. Catering may be provided for formal meetings with external bodies in certain circumstances, for example, if meetings take place outside of normal office hours.

It should be noted that the office of Chairman incorporates a large element of ceremonial duties which by their very nature will include an expectation of formal hospitality for which a separate budget is allocated and within which it is acceptable.

## **Dependents Carers' Allowances**

Members with care responsibilities in respect of dependent children under 16 or dependent adults certified by a doctor or social worker as needing attendance will be reimbursed, on production of valid receipts, for reasonable actual payments to a carer while the Member is on Approved Duties.

For the purpose of this allowance, payment will be made for care provided when the member is undertaking work at home which would be an Approved Duty if it were undertaken at the Council's offices.

The rate payable is based at cost upon production of receipts. In the case of specialist care, reimbursement will be made only where supported by such evidence as the council may require that this type of care is required is necessary.

No payment will be made with respect to care provided by a carer who is a member of the claimant Member's household.

In cases of difficulty either the member concerned or an officer may refer the question to the Audit, Governance and Standards Committee for decision.

A valid receipt will need to accompany any claim.

## **Unavoidable Fees and Charges**

Where a Member is required to register with the Information Commissioner's Office as a data controller the cost of this fee will be met by the Council.

Where a member incurs expenditure with the Disclosing and Barring Service (DBS) with respect to checks arising from requests made by the Council, that expenditure may be claimed subject to the production of evidence of payment.

## **Gifts and Prizes**

Council funds should not be used to purchase gifts of any kind. For example, none of the following can be reclaimed through the Council's expenses system:

- Christmas or other greetings cards, other than corporate Christmas cards, which are charged directly to individual cost centres and used only for official purposes;
- Staff or Member entertaining, including Christmas lunches and other parties;
- Gifts to members of staff or other Members or ex-members of staff or ex-Members;
- Gifts, gratuities or donations of any nature to external bodies or individuals;
- Prizes to staff members or Members rewarding special work efforts or good business ideas, other than through the approved corporate scheme – the costs of which would not be met through the expenses claim system;
- Cards for those officers sitting exams, or "get well" cards;
- Leaving gifts;
- Long service awards; and
- Flowers in respect of bereavements.

### **Provision of valid receipts**

Failure to supply receipts and appropriate detail for any expense will result in non-payment of claims.

### **No other Allowances are payable**

## Appendix 3

### Parental Leave Policy for Essex County Councillors

The County Council wishes to encourage parents to be represented at all levels of politics.

The purpose of this Policy is to confirm ECC's commitment to supporting members who have or wish to have children in the future and encouraging individuals to stand for election to the Council.

Within this policy, Parental Leave refers to the period of absence for an elected member of this Council following the birth or adoption of a child, this is applicable for both mothers and fathers.

#### 1. Attendance and leave periods

- 1.1 Section 85 of the Local Government Act 1972 requires councillors to attend at least one meeting of the Council in any six-month period.
- 1.2 Following the birth or adoption of a child, a dispensation will be put to the full Council to be given an extended leave of absence if requested.
- 1.3 Elected members will be allowed to attend any meetings of Council during this period if they wish.
- 1.4 Elected members giving birth are entitled to up to 52 weeks parental leave. This leave may be split between the parents. If either parent is in paid employment then any shared parental leave will reflect the arrangements made with the member's employer.
- 1.5 If no shared parental leave arrangement is in place then elected members shall in any event be entitled to two weeks parental leave following the birth of a child to their partner/spouse. Special and exceptional arrangements may be made in cases of premature birth.
- 1.6 If an elected Member adopts a child through an approved adoption agency, they shall be entitled to take up to 26 weeks adoption leave from the date of placement, with the option to extend up to 52 weeks by agreement if required.
- 1.7 Elected members will be provided with adequate IT equipment to allow them to work remotely whilst on parental leave and when returning to their role.
- 1.8 Any member taking parental leave should ensure that they respond to reasonable requests for information as promptly as possible, and that they keep officers and colleagues informed and updated in relation to intended dates of return and requests for extension of leave.

1.9 Members will not be expected to deal with constituency business during the absence. The Head of Democracy and Transparency will work with members to identify alternative arrangements, preferably via another local member agreed with the member concerned for dealing with this.

## **2. Allowances**

2.1 Elected Members on Parental Leave will continue to receive their Basic Allowance without deduction.

2.2 Elected Members on Parental Leave will continue to receive any Special Responsibility Allowances to which they are entitled.

2.3 Essex County Council's Democracy Team will facilitate any arrangement to allow case work to be completed and in consultation with the individuals Group will support cover arrangements.

2.4 Where a member who is taking parental leave is in receipt of a special responsibility allowance this will be paid for the period of their parental leave.

2.5 Where a replacement member is appointed to cover the period of parental leave, that member must be formally appointed via the usual processes and will receive the special responsibility allowance on a pro rata basis for the period of the temporary appointment (subject to the rule that no member may have more than one special responsibility allowance).

2.6 Payment of allowance to someone on parental leave will cease if the member ceases to be a member for any reason. In addition, payment of a special responsibility allowance will stop if

(a) There is a change in the leader of the Council and the leader appoints a permanent replacement

(b) The role attracting the special responsibility is abolished or ceases to attract a special responsibility allowance

(c) The member resigns from the role or indicates that they do not wish to return to the role.

(d) The member has been on parental leave for six months (unless the Council agrees to extend it in any particular case).

2.7 The Council's policy is that a member receiving special responsibility allowance whilst on parental leave will normally be entitled to return to the same role (or if that's not possible, a similar role) when they return from parental leave. This applies subject to the normal rules on appointments and would not apply in the circumstances set out in paragraph 2.7 (a) to (c). It is recognised that any member may be removed from any office as part of a wider reshuffle at any time.

## **3. Resigning from Office and Elections**

- 3.1 If a Member decides that they no longer wish to be a councillor, they must notify the Head of Democracy and Transparency at the earliest possible opportunity. All allowances will cease from the effective resignation date.
- 3.2 If an election is held during the Member's maternity, paternity, shared parental or adoption leave and they are not re-elected, or decide not to stand for re-election, their basic allowance and SRA if appropriate will cease from the day on which they leave office (normally the Monday after polling day).

## Appendix 4

### List of Approved Bodies

Only those bodies listed below (or on the list subsequently updated and published as Appendix 4 to *The Constitution*) is deemed to be an Approved Duty.

Essex County Council will only consider a claim for mileage and expenses in connection with a member's attendance at a meeting of an Approved Body if they are unable to make the claim from the Approved Body. A member must not make more than one claim for the same attendance.

An Approved Body may be internal or external and

- is not covered by the definition of Council, Committee or Sub-Committee; and
- is one where the appointment has been formally made in writing by the Cabinet Member.

(The published list was last updated by a decision at Council on 16 May 2023)

|   |
|---|
| Abberton Rural Training                                       |
| ACCESS Pension Fund Pool Joint Committee                      |
| Active Essex Foundation                                       |
| Adoption Panel Mid  |
| Adoption Panel North  |
| Adoption Panel South  |
| Adoption Panel West   |
| Ann Johnson's Educational Foundation                          |
|   |
| Billericay Educational Trust                                  |
| Bradwell Local Community Liaison Committee                    |
| Bradwell Quarry Liaison Group                                 |
| Bulls Lodge Liaison Group                                     |
|   |
| Chelmsford For You (Chelmsford Business Improvement District) |
| Civilian Military Partnership Board                           |
| Coast & Heaths AONB Partnership                               |
| Coast & Heaths AONB Joint Advisory Committee (JAC)            |
| Coastal Renaissance Partnership Board (CRPB)                  |
| Coleman's Farm Quarry Liaison Group                           |
| County Councils Network (CCN)                                 |
| Crouch Harbour Advisory Committee                             |
| Crumps Farm Liaison Group                                     |
|   |
| Danbury Lakes Country Park Forum                              |
| Dedham Vale AONB and Stour Valley Partnership                 |

|  |
|--|
| Dedham Vale AONB and Stour Valley Joint Advisory Committee (JAC)   |
|  |
| East of England LGA (EELGA) Assembly   |
| East Suffolk and North Essex NHS Foundation Trust (formerly Colchester Hospital University Trust)        |
| Epping and Theydon Garnon Joint Charities  |
| Essex Association of Local Councils  |
| Essex Cares Limited  |
| Essex Coastal Forum  |
| Essex Countywide Traveller Unit (ECTU) Joint Committee   |
| Essex Local Highways Panel - Basildon  |
| Essex Local Highways Panel - Braintree   |
| Essex Local Highways Panel - Brentwood   |
| Essex Local Highways Panel - Castle Point  |
| Essex Local Highways Panel - Chelmsford  |
| Essex Local Highways Panel - Colchester  |
| Essex Local Highways Panel - Epping Forest   |
| Essex Local Highways Panel - Harlow  |
| Essex Local Highways Panel - Maldon  |
| Essex Local Highways Panel - Rochford  |
| Essex Local Highways Panel - Tendring  |
| Essex Local Highways Panel - Uttlesford  |
| Essex Partnership University Foundation Trust  |
| Essex Rural Partnership  |
| Essex Sensory Pathway: Strategic Partnership Group   |
| Essex Waterways Ltd: Chelmer and Blackwater Navigation   |
|  |
| Family Hub Advisory Board, Braintree district (formerly Chelmsford Children's Centre Partnership Group)  |
| Family Hub Advisory Board, Chelmsford district (formerly Chelmsford Children's Centre Partnership Group) |
| Family Hub Advisory Board, Maldon district (formerly Chelmsford Children's Centre Partnership Group)     |
| Fawbert and Barnard's Educational Foundation   |
| Feering and Kelvedon Local History Museum  |
| Firstsite  |
| Fitch and Mott Trust   |
| Fostering Panels   |
|  |
| Gosling Education Foundation   |
| Grange Farm Centre Trust   |
| Great and Little Leighs Educational Charity (British School, Great Leighs)                               |
| Great Notley Country Park Joint Partnership Board  |
|  |



|  |
|--|
| Harlow College of Further Education Corporation                          |
| Harlow Strategic Partnership for Educational Attainment                  |
| Hatfield Forest National Trust Local Committee - Management Committee    |
| Hertfordshire and West Essex Integrated Care Partnership                 |
|  |
| Kent and Essex Inshore Fisheries and Conservation Authority              |
| King Edward VI School at Chelmsford (Foundation) V.C.                    |
|  |
| Lee Valley Regional Park Authority                                       |
| Leverton Educational Foundation  |
| LGA - Executive Board  |
| LGA - General Assembly   |
| LGA Resources Board  |
| LGA Coastal Special Interest Group                                       |
| Local Children's Partnership Board - Mid Essex                           |
| Local Children's Partnership Board - North East Essex                    |
| Local Children's Partnership Board - South Essex                         |
| Local Children's Partnership Board - West Essex                          |
| Local Strategic Partnership - Basildon                                   |
| Local Strategic Partnership - Chelmsford                                 |
| Local Strategic Partnership - Epping Forest                              |
| Local Strategic Partnership - Harlow 20/20                               |
| Local Strategic Partnership - Rochford                                   |
| Local Strategic Partnership - Uttlesford                                 |
| Local Strategic Partnership - Castle Point                               |
| London Southend Airport Consultative Committee                           |
|  |
| Mid and South Essex Integrated Care Partnership                          |
| Mid and South Essex NHS Foundation Trust                                 |
|  |
| National Association of Areas of Outstanding Natural Beauty              |
|  |
| North East London Joint Health Overview and Scrutiny Committee           |
| North Essex Parking Partnership (NEPP)                                   |
|  |
| Parking and Traffic Regulations Outside London Joint Committee           |
| Partnership Member Board - Waste   |
| Princess Alexandra Hospital NHS Trust                                    |
|  |
| Regional Flood & Coastal Committee Anglian (Eastern)                     |
| Regional Flood & Coastal Committee Anglian (Great Ouse)                  |
| Regional Flood & Coastal Committee Thames                                |
| Reserve Forces and Cadets Association for East Anglia (East Anglia RFCA) |

|  |
|--|
| Rivenhall Airfield Waste Site Liaison Group                          |
| Rural Community Council of Essex (RCCE)                              |
|  |
| Safer Essex  |
| Safer Essex Roads Partnership  |
| Saffron Walden Museum Society  |
| Saffron Walden Town Library Society                                  |
| South East Local Enterprise Partnership (SELEP) Accountability Board |
| South Essex Parking Partnership (SEPP)                               |
| Standing Advisory Committee for Religious Education (SACRE)          |
|  |
| Stansted Airport Consultative Committee                              |
| Suffolk and North Essex Integrated Care Partnership                  |
|  |
| Thames Estuary 2100 Strategic Programme Board                        |
| Thames Gateway South Essex Partnership                               |
| The Plume Educational Trust  |
| Thomas Plume's Library Charitable Incorporated Organisation          |
| Transport Routes Appeal Panel  |
|  |
| Visit Essex Board  |
|  |
| Whipps Cross Joint Health Overview and Scrutiny Committee            |
|  |
| Youth Strategy Group - Basildon                                      |
| Youth Strategy Group - Braintree                                     |
| Youth Strategy Group - Brentwood                                     |
| Youth Strategy Group - Castle Point                                  |
| Youth Strategy Group - Chelmsford                                    |
| Youth Strategy Group - Colchester                                    |
| Youth Strategy Group - Epping Forest                                 |
| Youth Strategy Group - Harlow  |
| Youth Strategy Group - Maldon  |
| Youth Strategy Group - Rochford                                      |
| Youth Strategy Group - Tendring                                      |
| Youth Strategy Group - Uttlesford                                    |

## Appendix 5

# Joint Committees and their Terms of Reference

For further information please contact Democratic Services

### **North Essex Parking Partnership Joint Committee**

The Joint Committee is authorised to discharge the following functions within Braintree, Colchester, Epping Forest, Harlow, Tendring and Uttlesford districts:

1. Collection of charges for on street parking;
2. The administration of residents' parking schemes and the collection of charges for permits in those districts;
3. Issuing Penalty Charge Notices;
4. Deal with all correspondence, appeals, adjudication and representations to the Traffic Tribunal;
5. Take steps necessary to recover payments and charges due under these functions;
6. Immobilisation, removal, recovery, storage and disposal of vehicles in connection with the above activities;
7. Procurement and maintenance of signs and lines relating to on-street enforcement;
8. Determine the levels and nature of fees and charges in respect of on street car parking provisions in North Essex;
9. Establish and manage the cost of the operation incurred under the Joint Committee;
10. Decide how any surplus is re-invested in parking services;
11. Provide a forum to discuss strategic issues relating to parking across North Essex;
12. Provide a forum to review at a strategic level the success of the Joint Committee
13. Making relevant 'parking' traffic regulation orders (TRO) in accordance with the Traffic Management Act 2004 and the Road Traffic Regulation Act 1984 except where this falls within the remit of ECC in respect of safety, congestion and 'new build'.

### **South Essex Parking Partnership Joint Committee**

The Joint Committee is authorised to discharge the following functions within Basildon, Brentwood, Castle Point, Chelmsford, Maldon and Rochford districts:

1. Collection of charges for on street parking;
2. The administration of residents' parking schemes and the collection of charges for permits in those districts;
3. Issuing Penalty Charge Notices;
4. Deal with all correspondence, appeals, adjudication and representations to the Traffic Tribunal;
5. Take steps necessary to recover payments and charges due under these functions;

6. Immobilisation, removal, recovery, storage and disposal of vehicles in connection with the above activities;
7. Procurement and maintenance of signs and lines relating to on-street enforcement;
8. Determine the levels and nature of fees and charges in respect of on street car parking provisions in South Essex;
9. Establish and manage the cost of the operation incurred under the Joint Committee;
10. Decide how any surplus is re-invested in parking services;
11. Provide a forum to discuss strategic issues relating to parking across South Essex;
12. Provide a forum to review at a strategic level the success of the Joint Committee
13. Making relevant 'parking' traffic regulation orders (TRO) in accordance with the Traffic Management Act 2004 and the Road Traffic Regulation Act 1984 except where this falls within the remit of ECC in respect of safety, congestion and 'new build'.

### **Essex Countywide Travellers Unit**

1. The Joint Committee shall exercise the following functions;
2. The Joint Committee shall be responsible for:
  - 2.1 Overseeing the provision of the baseline services namely:
    - 2.1.1 **Ensuring fire safety on all sites by:**
      - a. Providing advice and guidance on all sites in respect of fire safety including helping to facilitate any on site sessions the Essex County Fire and Rescue Service might wish to undertake.
      - b. Undertaking Site Fire Safety Inspections to assess particular fire risks and how these can be mitigated.
      - c. Undertaking Home Fire Safety Visits to assess particular fire risks and how these can be mitigated
    - 2.1.2 **Improving educational outcomes by ensuring access and take up of pre-school and compulsory education by:**
      - a. Identifying children and young people of pre and compulsory school age living on sites, checking that they are registered in pre-school/school and are attending regularly.
      - b. Working with appropriate departments in partner agencies to deal with any issues and provide support to ensure school attendance.
    - 2.1.3 **Improving education outcomes by facilitating access to further education, Vocational training and other learning opportunities by:**
      - a. Identifying any other individuals who have a learning need/wish to improve their skills.
      - b. Providing support and practical help to enable individuals to access suitable educational provisions.

- c. Working with partner agencies to undertake targeted initiatives or on site work.

**2.1.4 Increasing the number of individuals registering with a GP practice, particularly those with long term conditions by:**

- a. Identifying individuals with long term conditions and facilitating access to primary and specialist health services with a focus on attaining permanent registration with a GP practice.
- b. Work with communities and GP practices to foster links, increase understanding and encourage individuals to register with a GP practice.

**2.1.5 Working with health partners to develop and promote specific interventions namely:** Immunisation, accident prevention, stopping smoking, alcohol awareness, health checks, access to antenatal care, access to dental services, introduce the Health Champions scheme.

**2.1.6 To improve the knowledge of, access to, and take up of social care support for carers by**

- a. Identifying individuals with an unmet need and referring for an assessment
- b. Facilitating links between the assessor and participant during the assessment if required
- c. If the outcome of the assessment is negative, continuing to provide a point of contact if further assistance/assessment is required.

**2.1.7 Addressing the following priority areas:** Management of ECC owned sites remain the Councils responsibility however ECTU will address the following priority areas. Despite these areas being addressed by ECTU all final responsibility and decisions remain with the Council.

- a. ECTU are responsible for rent and arrears collection across all sites.
- b. ECTU are responsible for collecting charges and arrears for the direct supply of electricity that has been supplied to sites. ECTU plan to introduce a direct water supply to sites and when this occurs will be responsible for collecting charges and arrears in respect of the same.
- c. ECTU are responsible for routine site maintenance
- d. ECTU are responsible for addressing fly-tipping

**2.1.8 Dealing with unauthorised encampments**

2.2 Agreeing future Annual Business Plans for the Joint Committee;

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);

2.4 Agreeing the level of service provision through the annual budget setting process and as set out in this Agreement;

- 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);
- 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;
- 2.7 Making decisions relating to the use of funding of end of year deficits and surpluses;
- 2.8 Approving an Annual Report to be made available to the Partner Authorities and Chief Constable; and
- 2.9 Reviewing this agreement at the annual meeting held after 1 April in any year.
- 2.10 Such other functions as the Authorities may from time to time delegate to the Joint Committee with the written agreement of the Joint Committee.
3. The Joint Committee may not delegate the functions referred to in paragraph 2 above;
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.

### **Accountability Board of the South East Local Enterprise Partnership**

1. The Joint Committee shall exercise and be responsible for:
  - 1.1 the implementation of the Partnership's Accountability and Assurance framework and the all the processes by which bids are assessed, risks considered, approvals made and performance managed
  - 1.2 appraisals and approvals of grants and loans, in accordance with the SELEP Strategic Board recommendations
  - 1.3 monitoring project assessment and delivery
  - 1.4 ensuring accountability from each of the federated areas relating to expenditure and programme delivery
  - 1.5 approving variations to schemes
  - 1.6 quarterly performance reporting on the exceptions basis to the SELEP Strategic Board
  - 1.7 reporting on progress to central government
  - 1.8 any other accountability or assurance function required by central government or recommended by the Accountable Body's auditors or the S.151 Officer of the Accountable Body
  - 1.9 approving an Annual report to be made available to the Partner Authorities
  - 1.10 agreeing all new, revised processes, including the Assurance Framework

1. The Joint Committee may perform such other functions as the Partner Authorities from time to time delegate to the Joint Committee with the written agreement of the Joint Committee.

## **ACCESS Pension Fund Pool Joint Committee in respect of Pensions**

### **Terms of Reference of the ACCESS Joint Committee**

#### **Part 1 Operating the Pool and taking Advice**

1. The Joint Committee shall consult with and consider the advice of the Section 151 Officers Group (and, where requested, the Monitoring Officers and from appropriate professional advisers) in discharging its functions, recording, if appropriate, where such advice is not followed and the rationale for not doing so. It may decide to procure such professional advisers on such terms as it thinks fit. Accordingly, any procurement of advisers must comply with the constitution of the Council designated to undertake the procurement and that Council will enter into a contract with the appointed adviser on behalf of the Councils.
2. The Joint Committee shall decide which functions shall be performed by the ASU.
3. The Joint Committee shall at all times have regard to the principles set out in Schedule 1.
4. In consultation with the Councils, the Joint Committee shall have the ability to produce advisory guidelines for the Pool which describe the collectively aligned guidelines or policies of the Councils for engagement with existing and potential Pool Assets and Pool Aligned Asset providers and communication with other interested parties. Such guidelines will be periodically reviewed and updated by the Joint Committee in consultation with the Councils. Before consulting with the Councils on the guidelines, the Joint Committee shall consult with and consider the advice of the Section 151 Officers Group and, where requested, the Monitoring Officers and from appropriate professional advisers. Any guidelines for the Pool must not go beyond the policies already in place by each Administering Authority and will not supersede or replace the Investment Strategy Statement or policies of each Administering Authority.

#### **Part 2 Functions in relation to the Operator(s)**

1. **Specifying Operator services:** Deciding, in consultation with the Councils, the specification of Services and functions that each Operator will be required to deliver including the sub-funds and classes of investments required to enable each Council to execute its investment strategy.
2. **Procuring an Operator:** agreeing the method and process for the procurement and selection of one or more Operators.

3. **Appointing an Operator:** Making a recommendation to the Councils as to the identity of each Operator and the terms upon which each Operator is to be appointed.
4. **Reviewing the Performance of an Operator:** Keeping the performance of each Operator under review and making arrangements to ensure that the Joint Committee is provided with regular and sufficient reports from the ASU to enable it to do so including but not limited to:
  - 4.1 the performance of an Operator against its contractual requirements and any other performance measures such as any Service Level Agreement ("**SLA**") and key performance indicators ("**KPIs**") and officer recommendations on any remedial action;
  - 4.2 sub-fund investment performance;
  - 4.3 investment and operational costs including the annual review of investment manager costs;
  - 4.4 performance against the strategic business plan agreed by the Councils.
5. **Managing the Operator(s):**

The Joint Committee shall:

- 5.1 Make recommendations to the Councils about the termination or extension of the Operator Agreement(s);
- 5.2 Make decisions about any other action to be taken to manage an Operator Agreement including the giving of any instruction or the making of any recommendation to the relevant Operator including but not restricted to recommendations on investment managers (within any regulatory constraints that may apply); and
- 5.3 Make recommendations to the Councils about appropriate arrangements to replace an Operator Agreement on its termination.

### **Part 3 Functions in relation to management of Pool Assets**

6. The Joint Committee shall make recommendations to the Councils on the strategic plan for transition of assets that are to become Pool Assets.

### **Part 4 Functions Concerning Pool Aligned Assets**

7. The Joint Committee shall make recommendations to the Councils about Pool Aligned Assets in accordance with this Agreement or any other delegation to the Joint Committee by the Councils.
8. **Specifying services of Pool Aligned Assets Provider(s):** Deciding, in consultation with the Councils, the specification of Services which any Pool Aligned Assets Provider will be required to deliver including the sub-funds and



classes of investments required to enable each Council to execute its investment strategy.

9. **Procuring a Pool Aligned Assets Provider:** agreeing the method and process for the procurement and selection of one or more Pool Aligned Assets Providers.
10. **Appointing Pool Aligned Assets Providers:** Making a recommendation to the Councils as to the identity of each Pool Aligned Assets Provider and the terms upon which each Pool Aligned Assets Provider is to be appointed.
11. **Reviewing the Performance of a Pool Aligned Assets Provider:** Keeping the performance of each Pool Aligned Assets Provider under review and making arrangements to ensure that the Joint Committee is provided with regular and sufficient reports from the ASU to enable it to do so including but not limited to:
  - 11.1 the performance of a Pool Aligned Assets Provider against its contractual requirements and any other performance measures such as any Service Level Agreement ("**SLA**") and key performance indicators ("**KPIs**") and officer recommendations on any remedial action;
  - 11.2 investment performance of the Pool Aligned Assets Vehicle(s) or sub-funds, as appropriate;
  - 11.3 investment and operational costs including the annual review of investment manager costs;
  - 11.4 performance against the strategic business plan agreed by the Councils.

## **Part 5 Functions concerning Business Planning and Budget**

12. Having taken account of any advice from the Section 151 Officers Group (or, where relevant, recording the rationale for not following such advice), the Joint Committee shall:
  - 12.1 Make recommendations to the Councils about the annual strategic business plan for the Pool;
  - 12.2 Determine the budget necessary to implement that plan and meet the expenses of undertaking the Specified Functions (insofar as they will not be met by individual transaction costs paid by Councils to the Operator) in accordance with Schedule 5;
  - 12.3 Keep the structures created by this Agreement under review from time to time and make recommendations to the Councils about:
    - 12.3.1 the future of the Pool;
    - 12.3.2 any changes to this Agreement; and

- 12.3.3 the respective merits of continuing to procure operator services by means of a third party or by creation of an operator owned by the Councils.

## **Part 6 Functions concerning communications**

13. The Joint Committee may agree a protocol for communications in respect of the Pool with third parties, including the LGPS Scheme Advisory Board, other LGPS administering authorities, press, and relevant Government departments.

## **Part 7 Review of this Agreement**

14. The Joint Committee is required to undertake a review of this Agreement:
- 14.1 to be completed 18 months before the expiry of each and every Operator Agreement, including as a result of the exercise of any option to terminate an Operator Agreement;
- 14.2 whenever a Council gives notice of withdrawal *under clause 12 of this Agreement*, or
- 14.3 at such times as a Council may request under clause 11 (*Variation of this Agreement*).

## **Constitution of the Joint Committee**

### **Part 1 Membership**

- 1 The Joint Committee shall consist of one elected councillor appointed by each Council. The member so appointed must be an elected councillor of the appointing Council and be a serving member of the committee which discharges the functions of that Council as pension administering authority.
- 2 Each Council may appoint a substitute. Any such substitute must either meet the eligibility requirements in paragraph 1 or be an elected councillor of another council and serving as a member of the committee of a Council which discharges the functions of that Council as pension administering authority (established under Section 101 of the Local Government Act 1972). The substitute may attend any meeting of the Joint Committee or any of its sub-Committees in place of that Council's principal member appointed under paragraph 1 above if notice that the substitute will attend is given to the Secretary of the Joint Committee by the Council concerned.
- 3 Where a substitution notice is in effect with respect to a particular member at a particular meeting, the substitute shall be a full member of the Joint Committee for the duration of the meeting in place of the principal member.
- 4 Each Council may remove its appointed member and appoint a different member by giving written notice to the Secretary to the Joint Committee.
- 5 Each appointed member shall be entitled to remain on the Joint Committee for so long as the appointing Council so wishes. Any member who ceases to meet

the eligibility criteria in paragraph 1 or 2 (as appropriate) shall automatically cease to be a member of the Joint Committee.

- 6 Any casual vacancies will be filled as soon as reasonably practicable by the Council from which such vacancy arises by giving written notice to the Secretary to the Joint Committee or his or her nominee.
- 7 The Joint Committee may co-opt any other person whom it thinks fit to be a nonvoting member of the Joint Committee. The Joint Committee may from time to time make rules as to:
  - (a) Registration and declaration of interests by co-opted members.
  - (b) Standards of behaviour required to be observed by co-opted members when acting as such.
- 8 The Chairman of the Joint Committee will be appointed from time to time by the members of the Joint Committee. Subject to paragraph 5, the Chairman of the Joint Committee shall hold that office until another member is appointed. The appointment of the Chairman shall take place every two years, beginning with the Commencement Date with subsequent appointments falling not later than the first meeting of the Joint Committee following the annual meetings of the Councils in the relevant years.
- 9 The Vice-Chairman of the Joint Committee will be appointed from time to time by the members of the Joint Committee. Subject to paragraph 5, the Vice-Chairman of the Joint Committee shall hold that office until another member is appointed. The appointment of the Vice-Chairman shall take place every two years, beginning with the Commencement Date with subsequent appointments falling not later than the first meeting of the Joint Committee following the annual general meetings of the Councils in the relevant years.
- 10 The Joint Committee may appoint such sub-committees from among its membership as it thinks will help it to enable it to fulfil its remit. The Joint Committee may delegate its responsibilities to such sub-committees. Sub-Committees may co-opt non-voting members.
- 11 The Joint Committee may set up working groups to advise it on matters within its remit. Such working groups may be formed of members or officers of the constituent Councils or any other third party as the Joint Committee sees fit. Such working groups are advisory only and the Joint Committee may not delegate its responsibilities to such working groups.
- 12 Each member of the Joint Committee and any Sub-committee shall comply with any relevant code of conduct of their Council when acting as a member of the Joint Committee.
- 13 The Chairman may direct the Secretary to the Joint Committee to call a meeting and may require any item of business to be included in the summons.

- 14 Any 5 members of the Joint Committee may by notice in writing require the Chairman to call a meeting to consider a particular item of business and if the Chairman fails to do so within 20 working days of receipt of the notice then those 5 members may direct the Secretary to the Joint Committee to call a meeting to consider that business.
- 15 The Committee may, if the law permits, arrange for attendance at meetings via video conferencing. Any such attendance shall be in accordance with the law and any other requirements imposed by the Joint Committee from time to time.

## **Part 2 Proceedings**

### **16 TIME AND PLACE OF MEETINGS**

- 16.1 The Joint Committee will meet at least four times each year. All meetings of the Joint Committee will take place at a suitable venue and at a time to be agreed by the Councils.
- 16.2 Any Section 151 Officer or Monitoring Officer is entitled to attend all parts of all meetings of the Joint Committee or of any sub-committee appointed by the Joint Committee.

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

The Secretary to the Joint Committee will give notice to the public of the time and place of any meeting in accordance with Part VA of the Local Government Act 1972. At least five clear days before a meeting, the Secretary to the Joint Committee will send a summons by email and, if a member of the Joint Committee so requests, by post to every member at their last known address. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

### **18 CHAIRING OF JOINT COMMITTEE**

The Vice Chairman shall preside in the absence of the Chairman. If there is a quorum of members present but neither the Chairman nor the Vice-Chairman is present at a meeting of the Joint Committee, the other members of the Joint Committee shall choose one of the members of the Joint Committee to preside at the meeting.

### **19 QUORUM**

- 19.1 The quorum of a meeting will be at least 8 members who are entitled to attend and vote.
- 19.2 If there is no quorum present at the start of the meeting the meeting may not commence. If after 1 hour from the time specified for the start of the meeting no quorum is present, then the meeting shall stand adjourned to another time and date determined by the Secretary to the Joint Committee.

### **20 VOTING**

## 20.1 **Majority**

Each elected member shall have one vote. Co-opted members will not have a vote. Any matter will be decided by a simple majority of those members of the Councils represented in the room at the time the question is put. In the event of equality of votes the person presiding at the meeting will be entitled to a casting vote under paragraphs 39(1) and 44 of Schedule 12 of the Local Government Act 1972.

## 20.2 **By Substitutes**

The member appointed as a substitute shall have the same voting rights as the member for whom he or she is substituting. Where notice of substitution has been given for a particular meeting the principal member may not vote unless the notice of substitution is withdrawn before the start of the meeting.

## 20.3 **Show of hands**

The Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

## 20.4 **Recording of individual votes**

The minutes of the meeting shall record how a member of the Committee voted on a particular question if, at the time that the vote is taken or immediately thereafter, that member asks the Secretary to the Joint Committee or his or her representative at the meeting to record his vote.

## 21 **MINUTES**

21.1 The Secretary to the Joint Committee shall arrange for written minutes to be taken at each meeting of the Joint Committee and shall present them to the Joint Committee at its next meeting for approval as a correct record. At the next meeting of the Joint Committee, the Chairman shall move that the minutes of the previous meeting be signed as a correct record. If this is agreed, the Chairman of the Joint Committee shall sign the minutes.

21.2 Draft minutes or a summary of the decisions taken at the meeting and a note of the actions arising shall be circulated to the Committee and to each Council by email no later than 7 days after the date of the meeting.

21.3 Minutes of the meeting shall be published by the Host Authority to the extent required by Part VA of the Local Government Act 1972.

## 22 **ACCESS FOR ELECTED MEMBERS OF THE COUNCILS; LOCAL PENSIONS BOARDS AND OTHER OBSERVERS ("OBSERVERS")**

22.1 Any elected member of the Councils who is not a member of the Joint Committee may speak at a meeting of the Joint Committee if the Chairman of the Joint Committee invites him or her to do so but an elected member of the Councils who is not a member of the Joint Committee shall not be entitled to vote at a meeting of the Joint Committee.

## Local Pensions Board Observers

- 22.2 The Joint Committee shall invite Observers from the local pensions boards appointed under section 5 of the Public Service Pensions Act 2013 from each of the Councils to attend meetings of the Joint Committee on such basis as it thinks fit, which shall be reviewed by the Joint Committee from time to time. Such persons shall not be subject to the provisions of paragraph 23.1 below (the power to exclude members of the public in accordance with Part V A of the Local Government Act 1972).
- 22.3 Notice of Joint Committee Meetings shall be given by the Secretary to such Observers who are nominated in accordance with paragraph 22.2 above under paragraph 17, including details of the business to be transacted and such reports as are available. Such Observers shall receive copies of the minutes provided to members of the Joint Committee in accordance with paragraph 21.1 and 21.2.
- 22.4 Observers who attend meetings of the Joint Committee shall not be entitled to vote, nor may they speak unless invited to do so by the Chairman.

## Other Observers

- 22.6 Any other member of a Council's pensions committee established under Section 101 of the Local Government Act 1972 may attend a meeting of the Joint Committee at the discretion of the Chairman in the capacity of an Observer. Such persons shall not be entitled to vote, nor may they speak unless invited to do so by the Chairman. Such persons shall not be subject to the provisions of paragraph 23.1 below (the power to exclude members of the public in accordance with Part VA of the Local Government Act 1972). Notice of Joint Committee Meetings shall be given by the Secretary to such persons under paragraph 17. Such persons shall receive copies of the minutes provided to members of the Joint Committee in accordance with paragraph 21.1 and 21.2.

## 23 PUBLIC ACCESS

- 23.1 Meetings of the Joint Committee shall be open for members of the public to attend unless the Joint Committee determines that it is necessary to exclude members of the public in accordance with Part VA of the Local Government Act 1972 or the Joint Committee determines that it is necessary to close the meeting to the public because of a disturbance.
- 23.2 Copies of the agenda for meetings of the Joint Committee and any reports for its meetings shall be open to inspection by members of the public at the offices of the Councils with the exception of any report which the Secretary to the Joint Committee determines relates to items which in his or her opinion are likely to be considered at a time when the meeting is not to be open to the public.
- 23.3 If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If that person continues to interrupt, the Chairman will

arrange for that person to be removed from the meeting room and will suspend the meeting until the member of the public has left or been removed.

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

## **24 OVERVIEW AND SCRUTINY**

- 24.1 Each Council has overview and scrutiny committees which have the right to scrutinise the operation of the Joint Committee and the Joint Committee and the Host Authority will co-operate with reasonable requests for information from any of the Councils' overview and scrutiny committees.

- 24.2 The decisions of the Joint Committee are not subject to call-in.

## **25 REGULATION OF BUSINESS**

- 25.1 Any ruling given by the Chairman as to the interpretation of this constitution with respect to the regulation of proceedings at a meeting shall be final.

- 25.2 Subject to the law, the provisions of this Constitution and the terms of any contract, the Joint Committee may decide how it discharges its business.

# **Association of South Essex Local Authorities (ASELA)**

## **1. Introduction**

- 1.1 The core purpose of the Joint Committee is to provide place leadership for South Essex. Recognising that through a collaborative approach, the constituent authorities will be best placed to develop and deliver a vision for South Essex up to 2050, promoting healthy growth for communities.

- 1.2 The Joint Committee will focus on the strategic opportunities, regardless of individual local authority boundaries for the South Essex economic corridor to influence and secure the strategic infrastructure that will help individual areas to flourish and realise their full economic and social potential.

- 1.3 This agreement sets out how the ASELA Joint Committee shall operate in seeking to deliver its overarching purpose, what powers and functions it holds, how decisions are made and the procedures that are followed to ensure that it operates efficiently, effectively and is both transparent and accountable.

- 1.4 The Joint Committee shall come into effect from 1<sup>st</sup> April 2021.

- 1.5 The Association shall operate and discharge its functions through a Joint Committee between all local authorities formally established in accordance with Sections 101 and 102 of the Local Government Act 1972 and who have agreed to form part of the Joint Committee and made the agreed financial contribution to support the work of the joint committee. It has 7 members, being

- a councillor (elected member) appointed by each of the 'Constituent Councils' which includes –

-

- Basildon Borough Council
- Brentwood Borough Council
- Castle Point Borough Council
- Essex County Council
- Rochford District Council
- Southend Borough Council
- Thurrock Council

- 1.6 The Joint Committee shall have the ability to agree to additional local authorities, who it is considered are able to contribute to the aims of the Joint Committee, to join the committee as a 'constituent council'. Any such authorities will need to have formally agreed, in accordance with Section 101 of the Local Government Act 1972 to form part of the Joint Committee and made the agreed financial contribution to support the work of the Joint Committee.
- 1.7 The Joint Committee is subject to overview and scrutiny through constituent authorities' own scrutiny arrangements.

## **2. Principles**

- 2.1 This agreement and the terms of reference provide a basis for the work of ASELA. A review of this document shall be undertaken by the Joint Committee at the end of the 2021/22 municipal year and annually thereafter.
- 2.2 The Joint Committee and its proceedings are bound by the provisions of Schedule 12 of the Local Government Act 1972, but shall be expected to operate in accordance with the local arrangements set out in these governing documents.
- 2.3 There shall be no transfer of powers currently held by any constituent authority to the Joint Committee and this document makes no provision for such. The only functions exercisable by the Joint Committee are those set out in paragraph 6.5 of the appendix to this document.
- 2.4 Any decision taken by the Joint Committee on a question relating to a matter that is in the preserve of a specific local authority shall be subject to the support and agreement of that specific authority.
- 2.5 An 'accountable body'<sup>1</sup> in relation to the functions and resources of ASELA shall be agreed by the Joint Committee
- 2.6 A local authority will be designated to provide secretariat to the Joint Committee which shall be agreed by the Joint Committee

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<sup>1</sup> The accountable body must be a local authority which is a constituent council.



## **RESPONSIBILITY FOR FUNCTIONS**

### **A. JOINT COMMITTEE**

#### **1. Overview**

- 1.1 The Joint Committee has been formally established by all constituent councils in accordance with Sections 101 and 102 of the Local Government Act 1972 to discharge the functions of ASELA as set out in this Constitution.
- 1.2 The Joint Committee and its proceedings are bound by the provisions of Schedule 12 of the Local Government Act 1972, but the constituent council have expressed an intention to operate in accordance with the local arrangements set out in these governing documents.

#### **2. Membership**

##### **2.1 Appointment.**

Membership of the Joint Committee shall consist of the Constituent Council Members who comprise the Joint Committee, whereby each shall appoint –

- (i) one of its elected members as a member of the joint committee, preferably to be the Leader of the Council; and
- (ii) another elected member as a substitute member to act in the absence of the member appointed under (i) above

The Joint Committee shall have the ability to appoint co-opted members (without voting rights) to the Joint Committee as they see fit.

##### **2.2 Term of Membership**

- (a) Members or substitute members cease to be a member or substitute member of the joint committee –
  - (i) if they cease to be a member of the constituent council that appointed them; or
  - (ii) A person may resign as a member or substitute member of the joint committee by written notice served on the proper officer of the council of the constituent council that appointed them; or

- (b) Where a member or substitute member's appointment ceases the constituent council that made the appointment must, as soon as practicable, give written notice of that fact to the Association's Secretariat and appoint another of its elected members in that person's place;
- (c) A constituent council may at any time terminate the appointment of a member or substitute member appointed by it to the Association and appoint another of its elected members in that person's place.
- (d) Where a constituent council exercises its power under subparagraph (c), it must give written notice of the new appointment and the termination of the previous appointment to the Association's Secretariat and the new appointment shall take effect and the previous appointment terminate with immediate effect.

2.3 **Chair** – A Chair and Vice-Chair shall be appointed at the first meeting of the joint committee. Appointment of a new Chair and Vice-Chair shall take place by the end of June each year, following the annual meetings of all constituent councils. The Chair or, in his or her absence, the Vice-Chair shall chair all meetings of the joint committee when present.

2.4 **Quorum.** No business of the joint committee shall be transacted unless at least half of the Constituent Council Members or substitute members appointed are present.

### 3. **Meetings and Procedure**

#### 3.1 **Voting**

- (a) Subject to those matters at paragraph (d) below, any matters that are to be decided by the joint committee are to be decided by a majority of the members present and voting on that question at a meeting of the joint committee, such majority to include substitute members, acting in place of members.
- (b) Each member, or a substitute member acting in that member's place, is in post is to have one vote and no member or substitute member is to have a casting vote.
- (c) If a vote is tied on any matter it shall be deemed not to have been carried and there shall be no casting vote.
- (d) A decision on a question relating to a matter that is in the preserve of a specific local authority shall be subject to the support and agreement of that specific authority.

## **3.2 Procedure**

- (a) The joint committee will conduct business in accordance with the meeting standing orders set out in these terms of reference.
- (b) The proceedings of the joint committee are not invalidated by any vacancy among its members or substitute members or by any defect in the appointment or qualifications of any member or substitute member

## **4. Sub-Committees and advisory bodies**

### **4.1 The joint committee -**

- (a) may establish such other sub-committees, which may include the co-option of any non-voting members, as it sees fit; and
- (b) may establish such advisory panels and ad-hoc working groups as it considers may be expedient to assist it.

## **5. Delegation**

### **5.1 The exercise of the joint committee's functions may be delegated to:**

- (a) a sub-committee; or
- (b) an officer of one of the constituent councils .

A record of such delegations shall be maintained

## **6. Core Purpose, Aims and Functions**

### **Core Purpose and aims**

- 6.1 The core purpose of the Joint Committee is to provide place leadership for South Essex. Recognising that through a collaborative approach, the constituent authorities will be best placed to develop and deliver a vision for South Essex up to 2050, promoting healthy growth for communities.
- 6.2 The Joint Committee will focus on the strategic opportunities, regardless of individual local authority boundaries for the South Essex economic corridor to influence and secure the strategic infrastructure that will help individual areas to flourish and realise their full economic and social potential.

6.3 The primary aims of Joint Committee will be to:

- Provide place leadership;
- Open up spaces for housing, business and leisure development by developing a spatial strategy;
- Transform transport connectivity;
- Support the sectors of industrial opportunity;
- Shape local labour & skill markets;
- Create a fully digitally-enabled place;
- Secure a sustainable energy supply;
- Influence and secure funding for necessary strategic infrastructure; and
- Work with and provide a voice for South Essex working with the Thames Estuary Growth Board.

### **Principles of collaboration**

6.4 Collaboration will be focused on three key areas:

- Tackling problems we can't solve individually
- Creating collective scale and impact
- Providing the place leadership to promote and sell the 'South Essex' proposition

### **Specific Functions**

6.5 The functions of the joint committee are as follows:

- a. Provide oversight and direction of programmes of work aligned to the core purpose and aims of the joint committee set out above.
- b. Commissioning and co-ordination of delivery of programmes, projects and development of policy against in accordance with the core purpose and aims of the joint committee and allocate resources accordingly
- c. Submission of bids for funding to Central Government and other bodies as considered appropriate to deliver the vision and objectives, subject to the advice and approval of the Chief Financial (S151) Officer of the accountable body.
- d. Provide oversight and direction associated with the Joint Strategic Plan and approve any strategic planning framework proposals for consideration by individual local authorities
- e. Management and oversight of expenditure and activity associated with funding received from Government and other sources

- f. Agree the level of financial contributions requested from each local authority as a member of the joint committee to support its work
- g. Ensure effective relationships and collaboration as necessary to achieve ASELA's vision, with Central Government and other regional and national bodies including the South East Local Enterprise Partnership and Opportunity South Essex.

## **MEETINGS STANDING ORDERS**

### **1. Interpretation, Suspension and Chair's Ruling**

- 1.1 These Standing Orders apply to meetings of the joint committee, and where appropriate, to meetings of any sub-committees. Any reference to committee in these Standing Orders also refers to sub-committees.
- 1.2 The ruling of the Chair on the interpretation of these Standing Orders in relation to all questions of order and matters arising in debate shall be final.

### **2. Revisions to Standing Orders**

- 2.1 Standing Orders may be changed by the joint committee, which will be subject to a unanimous vote, either at the Annual Meeting or by a motion on notice made at a meeting of the joint committee.

### **3. Chairing of Meetings**

- 3.1 The Chair shall chair all meetings of the joint committee whenever he or she is present.
- 3.2 In the absence of the Chair and Vice-Chair, the meeting shall appoint another member to chair the meeting.
- 3.3 The expectation of constituent councils is that the Chair (or the Vice Chair or any other Member presiding in the absence of the Chair or Vice Chair) shall not exercise a casting vote on any issue.

### **4. Meetings**

- 4.1 The Annual Meeting of the joint committee shall be held annually in June on a date and at a time following the annual meetings of all 'Constituent Councils'

- 4.2 Ordinary meetings of committee for the transaction of general business shall be held on such dates and at such times as the committee shall determine.
- 4.3 All meetings of the committee shall be open to the public (including the press) except to the extent that they are excluded whether during the whole or part of the proceedings either:
- (a) In accordance with Section 100A(2) of the Local Government Act 1972; or
  - (b) By resolution passed to exclude the public on the grounds that it is likely, in view of the nature of the proceedings, that if members of the public were present there would be disclosure to them of exempt information as defined in Section 101 of the Local Government Act 1972. Any such Resolution shall identify the proceedings or the part of the proceedings to which it applies and state the description, in terms of Schedule 12A to the Local Government Act 1972 of the exempt information giving rise to the exclusion of the public.

## **5. Notice of Meetings**

- 5.1 At least five clear working days before a meeting of a committee:
- (a) notice of the time and place of the intended meeting shall be published;
  - (b) a summons to attend the meeting, specifying an agenda for the meeting, shall be sent to all Members of the joint committee by electronic mail.
- 5.2 Lack of service on a member of the committee of the summons shall not affect the validity of a meeting of the committee.
- 5.3 Each constituent authority shall ensure a link from their own website to information regarding meetings of ASELA and copies of agendas and minutes.

## **6. Meeting Agendas**

- 6.1 The Chair of the Joint Committee will decide upon the agenda for the meetings. The Chair may put on the agenda of any meeting any matter which the Chair wishes.
- 6.2 Any Member of the committee may require that an item is placed on the agenda of the next available meeting of the committee for consideration.

6.3 Any item proposed to be included on the agenda for any meeting of the committee in accordance with sub-paragraph 6.2 above, which is not submitted in writing before 7 working days of the meeting, shall not be included on the agenda for that meeting unless it is agreed by the Chair. In this case the amended agenda for the meeting will state the reason for the late acceptance of any such item.

6.4 The agenda for each meeting of the committee shall set out the items of business requested by Members (if any) in the order in which they have been received, unless the Member concerned has given notice prior to the issue of the agenda, for it to be withdrawn. If the Member concerned is not present at the meeting when an item of which they have given notice comes up for discussion, this item shall, unless the committee decides otherwise, be treated as withdrawn.

## **7. Access to Information**

7.1 Access to agenda, reports and associated documents in respect of a meeting of the committee are as determined by Part VA of the Local Government Act 1972 (Access to Meetings and Documents of Certain Authorities, Committees and Sub-Committees).

## **8. Quorum**

8.1 No business shall be transacted at any meeting of a committee unless at least half of the Members or substitute members appointed by the constituent councils are present.

8.2 If at the time for which a meeting is called, and for 15 minutes thereafter, a quorum is not present, then no meeting shall take place.

8.3 If during any meeting of the committee the Chair, after counting the number of Members present, declares that there is not a quorum present, the meeting shall stand adjourned to a time fixed by the Chair. If there is no quorum and the Chair does not fix a time for the reconvened meeting, the meeting shall stand adjourned to the next ordinary meeting of the committee.

## **9. Order of Business**

9.1 At every meeting of the committee the order of business shall be to select a person to preside if the Chair or Vice-Chair are absent and thereafter shall be in accordance with the order specified in the agenda for the meeting, except that such order may be varied -

- (a) by the Chair at his/her discretion; or
- (b) on a request agreed by the committee

9.2 The Chair may bring before the committee at their discretion any matter that they consider appropriate to bring before the committee as a matter of urgency.

## **10. Standing Orders of Debate**

10.1 The Chair shall decide all questions of order and any ruling by the Chair upon such questions and the interpretation of these Standing Orders of Procedure and upon matters rising in debate shall be final and shall not be open to discussion.

## **11. Voting**

11.1 Subject to sub-paragraph 11.6, any matters that are to be decided by the committee are to be decided by a majority of the members present and voting on that matter at a meeting of the committee, such majority to include substitute members, acting in place of members.

11.2 Each member appointed according to the provisions in paragraph 1, or a substitute member acting in that member's place, and the Chair, or the Vice-Chair acting in his or her place is to have one vote and the constituent councils intend that no member or substitute member shall exercise a casting vote.

11.3 If a vote is tied on any matter and no casting vote is exercised it shall be deemed not to have been carried.

11.4 Whenever a vote is taken at meetings it shall be by a show of hands. On the requisition of any member, supported by one other Member who signifies their support, and before the vote is taken, the voting on any question shall be recorded so as to show whether each Member present gave their vote for or against that question or abstained from voting.

11.5 A Member, or Substitute Member acting in that Member's place may demand that his/her vote be recorded in the Minutes of the meeting.

11.6 A decision on a question relating to a matter that is in the preserve of a specific local authority shall require the support and agreement of that specific authority.

## **12. Conduct**

12.2 In the event of general disturbance, which in the opinion of the Chair, renders the due and orderly dispatch of business impossible the Chair, in addition to any other power vested in the



Chair may, without question put, adjourn the meeting of the committee for such period as the Chair considers expedient.

### **13. Disturbance by Members of the Public**

- 13.1 If a member of the public interrupts the proceedings at any meeting of the committee the Chair shall warn him or her. If they continue the interruption the Chair shall order his or her removal from the room. In the case of general disturbance in any part of the room open to the public the Chair shall order that part to be cleared.

### **14. Notification and Declaration of Interests**

Members of the committee shall comply with their respective councils Code of Conduct for Members.

## **Tendring Colchester Borders Garden Community Joint Committee**

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| <b>TERMS OF REFERENCE FOR TENDRING COLCHESTER BORDERS<br/>GARDEN COMMUNITY JOINT COMMITTEE</b> |
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### **1. Parties:**

- (1) Tendring District Council ("TDC")
- (2) Colchester Borough Council ("CBC")
- (3) Essex County Council ("ECC")

### **2. Status:**

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

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

### **3. Membership:**

- 2 Members appointed by TDC (one of which must be the Chairman of the Planning Policy and Local Plan Committee) plus 1 Cabinet member appointed by the Leader
- 2 Members appointed by CBC (one of which must be the Chairman of the Local Plan Committee) plus 1 Cabinet member appointed by the Leader
- 2 Members appointed by ECC, one of whom should be a Cabinet Member or Deputy Cabinet Member.

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

#### **4. Terms of reference:**

4.1 The Committee's remit is to jointly discharge the functions ('the Functions') set out in Appendix 1 in relation to the Tendring Colchester Borders Garden Community, the exercise of which have been delegated to the Committee by TDC, CBC and ECC, subject to the limitation in paragraphs 4.3 and 4.4.

4.2 The functions delegated by TDC, CBC and ECC include:-

- (a) To exercise the Council's functions relating to overseeing the preparation of the joint TCBGC DPD and ensuring it:
  - a. is in accordance with the Local Development Schemes;
  - b. includes policies designed to secure that the development and the use of land in the garden community area contribute to the mitigation of, and adaptation, to climate change;
  - c. meets the "tests of soundness" as set out in legislation, national and planning policy and advice contained within guidance issued by the Secretary of State;
  - d. has regard to the adopted Section 1 of CBC & TDC's Local Plan;
  - e. has regard to the resources likely to be available for implementing the proposals in the document;
  - f. other such matters the Secretary of State prescribes; and
  - g. complies with the Council's Statement of Community Involvement
- (b) the power to formulate and prepare a draft Joint Development Plan Document for consultation under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012;
- (c) carry out an appraisal of the sustainability of the proposals within the joint TCBGC DPD and approve the findings of the appraisal;
- (d) make recommendations to TDC and CBC in relation to the approval of the TCBGC DPD for the purpose of its submission to the Secretary of State for independent examination under Section 20 of the 2004 Act, and consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012;
- (e) consideration of amendments or modifications of the joint TCBGC DPD recommended by the person carrying out the independent examination under section 20 of the 2004 Act;
- (f) recommend to CBC and TDC adoption of Joint Development Plan Documents in accordance with Section 28 of the Planning and Compulsory Purchase Act

2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012; and

- (g) the power of the TDC and CBC as local planning authority to determine planning applications by virtue of the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- (h) To exercise TDC, CBC and ECC's local planning authorities' powers and duties in relation to development control including for the avoidance of doubt the power to approve authorise and direct the respective Local Planning Authorities to enter into agreements regulating the development or use of land pursuant to S106 of the Town and Country Planning Act 1990 and related powers.

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

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

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

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

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

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

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

## **5. Standing Orders**

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

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

## **6. Administration**

- 6.1 The Council which is the local planning authority shall receive applications relating to the functions in the usual way and shall be responsible for all administrative stages leading to and flowing from the exercise of the functions.
- 6.2 The administration of the Committee will be undertaken by TDC who shall be responsible for all matters connected with the administration of the Committee, including the preparation and dispatch of agendas and securing premises at which the Committee may meet.

### **Functions delegated by Tendring District Council, Colchester Borough Council and Essex County Council to the Joint Committee in relation to Tendring Colchester Borders Garden Community.**

1. The functions delegated by TDC and CBC: -
  - (a) To exercise the Council's functions relating to overseeing the preparation of the joint TCBGC DPD and ensuring it:
    - a. is in accordance with the Local Development Schemes;
    - b. includes policies designed to secure that the development and the use of land in the garden community area contribute to the mitigation of, and adaptation, to climate change;
    - c. meets the "tests of soundness" as set out in legislation, national and planning policy and advice contained within guidance issued by the Secretary of State;
    - d. has regard to the adopted Section 1 of CBC & TDC's Local Plan;
    - e. has regard to the resources likely to be available for implementing the proposals in the document;
    - f. other such matters the Secretary of State prescribes; and
    - g. complies with the Council's Statement of Community Involvement
  - (b) the power to formulate and prepare a draft Joint Development Plan Document for consultation under Regulation 18 of the Town and Country Planning (Local Planning)(England) Regulations 2012;
  - (c) carry out an appraisal of the sustainability of the proposals within the joint TCBGC DPD and approve the findings of the appraisal;
  - (d) make recommendations to TDC and CBC in relation to the approval of the TCBGC DPD for the purpose of its submission to the Secretary of State for independent examination under Section 20 of the 2004 Act, and consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012;
  - (e) consideration of amendments or modifications of the joint TCBGC DPD recommended by the person carrying out the independent examination under section 20 of the 2004 Act;
  - (f) recommend to CBC and TDC adoption of Joint Development Plan Documents in accordance with Section 28 of the Planning and Compulsory Purchase Act 2004

and the Town and Country Planning (Local Planning) (England) Regulations 2012; and

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

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

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

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

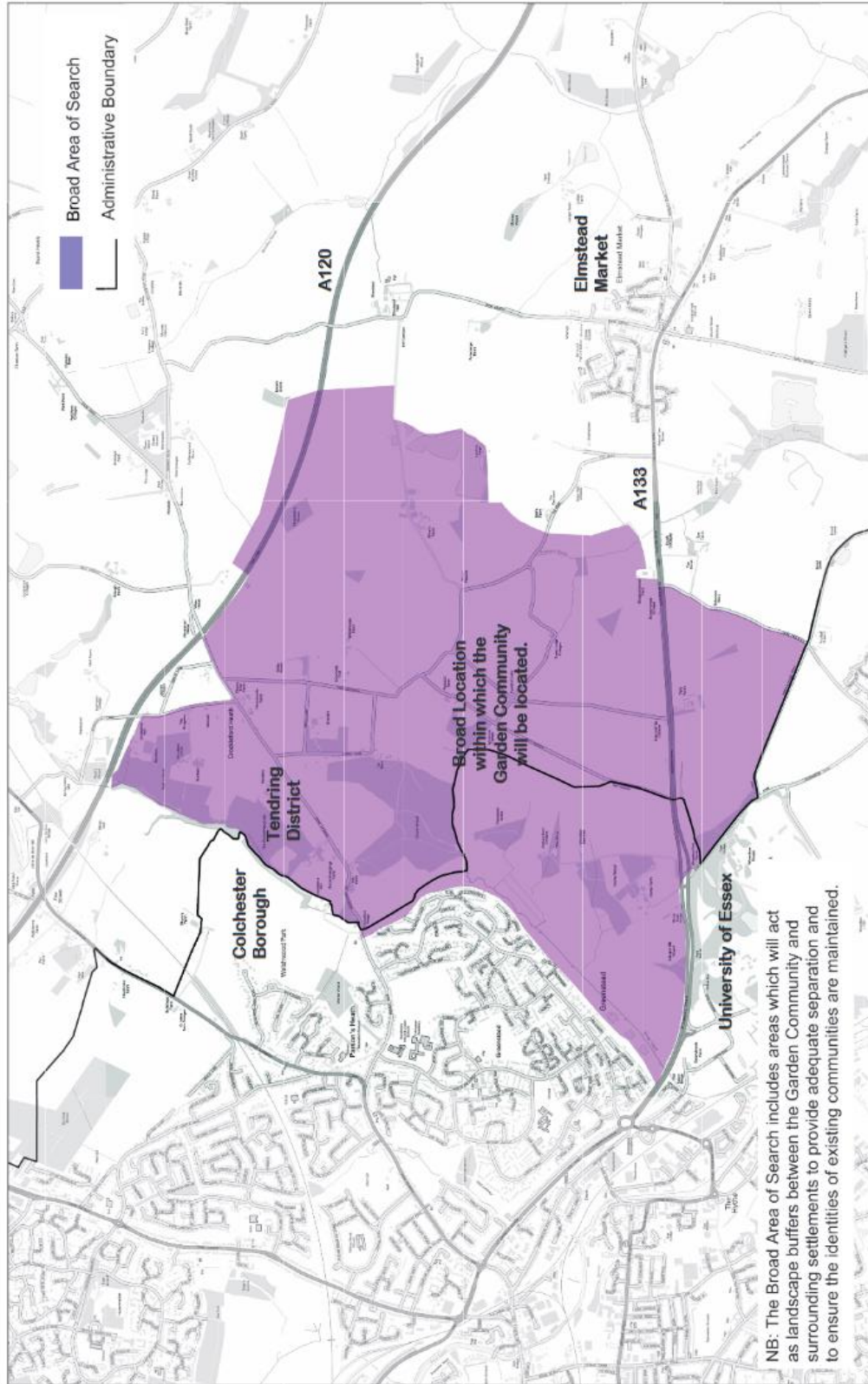
- Housing – all tenures (market, affordable, and specialist housing for elderly persons etc.)
- New schools (primary, secondary, special education needs early years and post 16)
- Community centre, community hub and library
- leisure uses, sports provision, and allotments
- Country parks, recreation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

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

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

Plan showing Tendring Colchester Borders Garden Community

Tendring Colchester Borders Garden Community - Broad Area of Search



NB: The Broad Area of Search includes areas which will act as landscape buffers between the Garden Community and surrounding settlements to provide adequate separation and to ensure the identities of existing communities are maintained.

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| <p style="text-align: center;"><b>Standing Orders for Tendring Colchester Borders Garden Community<br/>Joint Committee</b></p> |
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**1. Appointment of Chair and Deputy Chair**

- 1.1 The Committee shall, at its first meeting in each municipal year, and from time to time as it considers necessary, elect a Chair and Deputy Chair. The Chair and Deputy Chair shall rotate between the Council's.
- 1.2 In the absence from any meeting of the Chair and Deputy Chair, a Chair for that meeting shall be appointed by the meeting but shall relinquish the chair if the Chair or Deputy Chair subsequently arrives at the meeting.

**2. Appointment of Spokespersons**

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

**3. Notice of and Summons to Meetings**

- 3.1 The administration of the Committee shall be undertaken by Tendring District Council who will give notice to the public of the time and place of any meeting in accordance with the access to information rules applicable to local authorities. At least five clear days before a meeting, the Committee Service will send an agenda by post and/or electronically to every member of the Committee. The agenda will give the date, time and location of each meeting and specify the business to be transacted and will be accompanied by such details as are available.
- 3.2 The Committee Service will take reasonable steps to ensure that a copy of the agenda and accompanying papers are placed on deposit at the offices of each of the councils for public inspection at least five clear days before the meeting and are published on the Council's web sites. The Committee Service will ensure that arrangements are put in place for the inspection of background papers in accordance with section 100D, Local Government Act, 1972 and to ensure compliance with all other provisions of Part VA, of that Act.
- 3.3 Dates, times and venues for meetings shall be determined by the Committee. In the absence of agreement or in cases of urgency, meetings may be called by the Committee Service following consultation with the Chair and Deputy Chair.
- 3.4 If at any time Tendring District Council was unable to fulfil its role in providing the administration to the Committee, Colchester Borough Council or Essex County Council will perform the functions.

**4. Membership**

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

## **5. Substitute Members**

- 5.1 Each Council will appoint one substitute member. Each Council will notify the Committee Service of substitute members appointed.
- 5.2 Substitute members will have all the powers and duties of an ordinary member of the Committee. For the purposes of briefing meetings and circulation of papers, substitute members shall be treated in the same manner as ordinary members.
- 5.3 Substitute members may attend meetings in the capacity of an ordinary member of the Committee. The substitute member should withdraw from participation as a member of the Committee in the business at that meeting during any period at which the ordinary member is in attendance.

## **6. Quorum**

- 6.1 The quorum of a meeting of the Committee shall be as follows: -
- 2 Members from Tendring District Council
  - 2 Members from Colchester Borough Council
  - 2 Members from Essex County Council

## **7. Public speaking rights**

- 7.1 Members of the public have the public speaking rights set out in Annex A.
- 7.2 The Committee shall have the power to amend the public speaking rights.

## **8. Voting**

- 8.1 All members of the Committee shall be entitled to vote upon any decision due to be made by the Committee.
- 8.2 Every question shall be decided by a show of hands, subject to Rule 8.3.
- 8.3 If any member demands a named vote and is supported by two other members, the question shall be determined by a named vote and the Committee Service shall record and enter in the minutes the names of each member present and whether they voted for or against or abstained.
- 8.4 Any member may, immediately after any vote is taken, require a record to be made in the minutes of whether they voted for or against or abstained.
- 8.5 If there are equal numbers of votes for and against, the Chair will have a second and casting vote.

## **9.0 Tenure of office**

- 9.1 A member shall cease to be a member of the Committee if the person—
- (a) resigns in accordance with paragraph 9.3;
  - (b) is removed or replaced by the Council which made the appointment; or



(c) ceases to be a member of a constituent Council (and does not on the same day again become a member of that or any other Council).

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

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

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

## **10. Minutes**

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

## **11. Exclusion of Public**

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

## **12. Disorderly Conduct: Misconduct of a Member**

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

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

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

## **13. Disorderly Conduct: Disturbance by members of the public**

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

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

## **14. Suspension of Standing Orders**

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

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

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

## **16. Attendance at the Committee by Council Officers**

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

## **17. Statements of Community Involvement**

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

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| <b>Tendring Colchester Borders Garden Community<br/>Joint Committee</b> |
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### **PART A**

#### **Public Speaking Arrangements- General**

1. Members of the public, who want to speak about an item which is to be considered at a meeting of the Committee can do so if they have notified the Committee Service by 12.00 noon on the day before the meeting.

#### **At the Committee Meeting**

2. Agenda items for which there are public speakers are taken first, normally in the order of the agenda.
3. Each speaker will be allowed three minutes in which to make their representation. The Chair will tell the speaker when the three minutes has elapsed and the speaker must stop when requested by the Chair. The Chair has discretion to extend this time limit.
4. The Chair will ask the speaker to come to the table at the beginning of the discussion of the report of the relevant item. The Chair will then invite them to speak following the Officer's introduction to the report on the item.
5. The speaker should address the Chair of the Committee, which is the normal convention for Committees.

6. Speakers should remember to:

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

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

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| <b>Tendring Colchester Borders Garden Community<br/>Joint Committee</b> |
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## **PART B**

### **Public Speaking Arrangements- Planning Applications**

1. Members of the public, or applicants or their agents, who want to speak about an application which is to be considered at a meeting of the Committee can do so if they have:
  - (a) in the case of members of the public, already submitted a written representation on an application; and
  - (b) notified the Committee Service by 12.00 noon on the day before the meeting.
2. A member of the public who has made a written representation on a planning application which is to be determined by the Committee, will be notified in writing about the committee date and their public speaking rights in the week before the Committee meeting.

### **At the Committee Meeting**

3. A list of public speakers is available at the meeting. Agenda items for which there are public speakers are taken first, normally in the order of the agenda.
4. Each speaker will be allowed three minutes in which to make their representation. The Chair will tell the speaker when the three minutes has elapsed and the speaker must stop when requested by the Chair. The Chair has discretion to extend this time limit.
5. If more than one person wants to make a representation about the same application, then they should choose someone to act as a spokesperson. When several people wish to speak on the same application but wish to raise different issues, the Chair may agree to those speakers making representations. In these circumstances, less time may need to be given to each speaker.
6. The Chair will ask the speaker to come to the table at the beginning of the discussion of the report on the relevant application. The Chair will then invite them to speak following the Officer's introduction to the report on the application.
7. The speaker should address the Chair of the Committee, which is the normal convention for Committees.

8. Speakers should remember to:

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

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

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