

EAST HERTS COUNCIL

COUNCIL - 17 MAY 2006

REPORT BY THE DIRECTOR OF CORPORATE GOVERNANCE

14 REVISIONS TO THE CONSTITUTION

WARD(S) AFFECTED: ALL

'D' RECOMMENDATION – that the constitution be amended to provide for a revised decision making process based on the Member Challenge Meetings.

1.0 Purpose/Summary of Report

1.1 The report considers amendments to the Constitution based on the Challenge Meetings to improve the decision making process. The Monitoring Officer monitors and reviews the Constitution on a regular basis. Recommended changes are included in the report.

2.0 Contribution to the Council's Corporate Objectives

2.1 The proposals contribute to the Council's corporate priority to improve the health and sustainability of the organisation by advancing the target of ensuring the highest standard of corporate governance.

3.0 Background

3.1 Following on the successful Challenge meeting held on 2 March 2006, the following issues were broadly agreed by those Members present:

- (A) In order to give back bench Members more involvement in the process of policy formulation, Members will be empowered to request the Policy Development Scrutiny Committee to place an item on their agenda relating to future policy development. The Committee will then decide whether or not the matter should be pursued.

- (B) In order to involve back benchers in the decision making process, a series of inter-dependent measures would be introduced. The first of these would be to delegate non-key decisions to Executive Members. A non-key decision is one that does not change policy or involve significant expenditure. However, before that non-key decision can be taken, the Executive Member must consult, through a Coordinator, his/her advisory panel. Under normal circumstances, the consultation can be virtual, but it will be open for any Member of the panel to request a formal minuted meeting to discuss an item. It is expected that each panel will meet formally at least four times a year.
- (C) That panel, whether meeting virtually or formally must receive the full report and respond through the coordinator within 7 working days. When meeting formally, the Executive Member will be entitled to attend. Where there is no disagreement, or Members of the panel do not respond through the Coordinator within the 7 days, the decision will be taken, and signed off by the Executive Member and the Coordinator. Where there is disagreement, or a request for further information, the decision will be delayed until the matter can be resolved. Once it is resolved the procedure outlined above will follow. If it is not resolved (i.e. a majority of the panel do not agree) then the matter must be referred via the Performance Scrutiny Committee (see para E below) to the Executive, where it will be dealt with as if it were a key decision.
- (D) It is proposed that the size of each panel (normally one panel per Executive Member, consisting of 5 Members) should be decided annually, and the Coordinators appointed annually by the Leader. The Coordinators role would be to liaise with the Executive Member and the other panel Members, and ensure that the majority of Members of the panel were in agreement with the proposed decision. They would then jointly sign off the decision (see para C above)
- (E) The Executive will continue to deal with Key Decisions (plus those referred under para C above). There will however be one significant change in that prior to any item (other than an urgent item) being discussed by the Executive, it will be considered by a meeting of the Policy Scrutiny Committee,

(who will receive the full reports), at least one week before the Executive. The Executive in reaching their decision will be required to take account of the Policy Scrutiny Committee's views, but need not necessarily accept them in whole or in part.

- (F) Once a non-key decision had been taken it would be communicated to all Members via a weekly report sheet, which would contain a brief report, the decision and an indication it had been agreed by the Executive Member and the Coordinator on behalf of the panel. Members would then be able to call the decision in, in accordance with existing procedure if they so wished
- (G) This process should reduce considerably the need for formal meetings of the Executive and obviously the Council, and will make the whole process much more transparent, and as a result the Challenge Group felt that these could be reduced to six a year plus Annual Council and the Council Tax Setting Council.
- (H) One additional improvement in the role of backbenchers would be an additional power of the Policy Development Scrutiny Committee to establish, on an annual basis, Standing Panels which would be given a brief to look at a particular subject area (e.g. the Environment) and report back on a regular basis. These panels may be task and finish panels.
- (I) The practice whereby Executive Members were not required to attend certain Scrutiny Committees should be reversed, and one purpose of all Scrutiny Meetings should be to hold the Executive to account, as well as work with them to develop the future strategies of the Council.
- (J) The Challenge Group were of the opinion that this process would require the Forward Plan to be more robust in identifying forthcoming issues. There would also be a work plan identifying significant matters and explaining their progress.
- (K) The Council's Constitution should be regarded as a living document that should be reviewed annually so that modifications can be considered by Annual Council. It could

be reviewed either by the Performance Scrutiny Committee, or the Standards Committee.

(L) The procedure of petitions at Full Council would be amended to enable Ward Members to comment on petitions.

(M) Call-in Scrutiny would be abolished.

3.2 Minor changes have also been made to allow for substitute Members to be appointed to Committees and Sub-Committees with a provision that appropriate training will be required for some committees. A Vice Chairman may also be appointed to Committees and Sub-Committees.

3.3 The key areas of change in the constitution are attached in Appendix 'C' (pages 110 - 182).

4.0 Financial Regulations

4.1 An amendment is proposed to assist the Council to deal with financial matters. The proposed amendment requires a report to the Executive and the relevant Portfolio Holder when collectively works, goods or services in respect of a single issue or project originally estimated to cost less than £50,000 result in actual expenditure and/or likely expenditure exceeding £55,000. This modification leaves the basic framework of the Financial Regulations intact and gives a new requirement to notify the Executive of material escalating costs regardless of whether budgets have been breached. This change will enable Members to have an overview of the complete costs for a project where the overall costs are significant.

4.2 The amendment is as follows:

“4.61 (d) If collectively works, goods or services in respect of a single issue or project originally estimated to cost less than £50,000 result in actual expenditure and/or likely expenditure exceeding £55,000, then the Director responsible for the budgeted expenditure will submit a report for noting to the next meeting of the Executive explaining the circumstances surrounding the escalation of costs. The Director shall draw the expenditure to the attention of the appropriate portfolio holder at the earliest opportunity. All existing financial regulations and procedures in respect of budgets and expenditure will continue to apply.”

5.0 Audit Committee

- 5.1 The way in which an audit committee is organised will depend on the specific political and management arrangements in place in the Council. The recent CIPFA guidance advises that the audit committee should be separate from the executive and scrutiny functions and must have a clear right of access to other committees/functions and Full Council. The Audit Committee will have the right to call any officer or agency of the Council as required.
- 5.2 Legislation does not require an audit committee. However, the Council is required to ensure that its financial management is adequate and effective and that it has a sound system of internal control which facilitates the effective exercise of its functions. Under the Local Government Act 1972 the Council is required to make arrangements for the proper administration of its financial affairs.
- 5.3 The key Lines of Enquiry under CPA judgments advocate the use of Audit Committees. CIPFA suggests that an effective audit committee is required to enable the Council's chief finance officer to provide support and challenge, together with effective internal audit.
- ## 5.4 Functions of an Audit Committee
- 5.5 An effective audit committee will raise awareness of the need for greater internal control, increase public confidence in the objectivity of financial reporting and reinforce the importance and independence of audit. The committee can also provide additional assurance through independent review.
- 5.6 The proposed functions would include the following:
- Consider the effectiveness of the Council's risk management arrangements, controls and anti fraud and corruption strategy.
 - Obtain assurance that action is being taken on risk related issues identified by auditors/inspectors.
 - Be satisfied that the Council's assurance statements including the Statement of Internal Control (SIC) properly reflect the risk environment and actions required to improve it.
 - Approve internal audit's strategy, plan and monitor performance.
 - Review summary internal audit reports and the main issues arising ensuring action has been taken where necessary.
 - Receive the annual report from the Head of Internal Audit.

- Consider the reports of external audit and inspection agencies.
- Ensure effective relationships between internal and external audit, inspection agencies and other bodies and ensuring that the value of the audit process is promoted.
- Review the financial statements, external auditor's opinion and reports to Members and monitor management action in response to the issues raised by external audit.

5.7 Internal Audit

5.8 The audit committee's role in relation to reviewing the work of internal audit would include formal consideration of summaries of work done, key findings and actions being taken. The committee would judge the effectiveness of internal audit by receiving feedback on their work. The Head of Internal Audit would provide independent assurance to the committee supporting the responsibilities of the chief financial officer.

5.9 External Audit

5.10 The Committee would receive the work of the external auditor. It would contribute to the Council's response to the annual audit and inspection letter, reports and opinion. It would be able to express an opinion on the selection and rotation of the external auditor. There should be an opportunity for the committee to meet separately with the external auditor on a private basis. This opportunity would also be available to Internal Audit. The committee should be aware of the work of scrutiny and other committees so that it can take account of relevant issues.

5.11 Strategies

5.12 The committee should also review strategies which control the activities of the Council. These strategies would include risk management, the statement of internal control, the codes on corporate governance and standards.

5.13 Financial statements should be reviewed before they are approved, e.g. in consultation with the external auditor's SAS610 report.

5.14 Composition of the Audit Committee

5.15 Members of the committee should be able to recognise and understand the value of the audit function. Preferably they should have some knowledge and experience in the field.

- 5.16 CIPFA considers that the audit committee should be recognised as an important body in the Council's structure. Best practice from the private sector and parts of the public sector is for an audit committee to report directly to the Council making it independent from the executive and scrutiny functions. According to the Key Lines of Enquiry for Use of Resources, level 4 may only be obtained where the Audit Committee is constituted as a full committee of the Council and is independent of both the Executive and Scrutiny functions (see Appendix 'A', page 107).
- 5.17 Where scrutiny committee's discharge audit committee functions, there is a risk that these functions become diluted or the functions of these committees become less clear. Scrutiny and audit functions are different and combining them may cause confusion in the minds of Members, officers and the public. This confusion could be addressed by a separate Audit Committee as part of the Scrutiny process.
- 5.18 The audit committee needs to have the independence to challenge the Executive and be able to report to it on major issues. The link with the scrutiny function can be beneficial but too many Members on both committees can compromise the strength of the audit committee. According to CIPFA, cross-membership from the Executive or scrutiny should not be the norm. If it is seen as necessary, it should be restricted to one member from each and the Audit Committee Chairman should not be a member of the Executive.
- 5.19 There should normally be at least four meetings a year. One to set up the programme and agreeing audit plans and three others for monitoring, approval of the accounts, review the financial statements, approve the draft SIC and the external auditor's report.
- 5.20 The committee should comply with the rules on political balance and will typically have five Members in accordance with HM Treasury guidance. Co-option could be considered. Training will be required to develop the necessary skills.
- 5.21 Terms of reference are set out in Appendix 'B' (pages 108 - 109).
- 5.22 Human Resources Committee
- 5.23 It is proposed that the HR Sub-Committee should become a committee responsible for approving and reviewing policies for

human resources.

6.0 Consultation

6.1 Consultation has taken place amongst Members and Directors.

7.0 Legal Implications

7.1 The legal implications have been taken into account in amending the Constitution.

8.0 Financial implications

8.1 The Capital Programme will need to be amended to provide for the Capital Allocations by Members. Key decisions and non-key decisions must be made within budget.

9.0 Human Resource Implications

9.1 There are none.

10.0 Risk Management Implications

10.1 A Constitution which reflects the Council's structure and delegation is important to the smooth running of the organisation.

Background papers

The constitution and relevant guidance.

Contact Member: Councillor Tony Jackson – Leader

Contact Officer: Simon Drinkwater – Director of Corporate Governance
- Ext 2003

<p>4. INTERNAL CONTROL How well does the council's internal control environment enable it to manage its significant business risks?</p>		
<p>Key line of enquiry 4.2 The council has arrangements in place to maintain a sound system of internal control</p>		
<p>Audit Focus</p>		
<p>Evidence that:</p> <ul style="list-style-type: none"> the council reviews and reports on its system of internal control the council has an audit committee or equivalent and an internal audit function 		
<p>Criteria for Judgement</p>		
<p>Level 2</p>	<p>Level 3</p>	<p>Level 4</p>
<p>* An appropriate member group has responsibility for review and approval of the SIC and considers it separately from the accounts.</p> <p>* The council has conducted an annual review of the effectiveness of the system of internal control and reported on this in the SIC.</p> <p>* The sources of assurance to support the SIC have been identified and are reviewed by senior officers and members.</p> <p>* There are action plans in place to address any significant internal control issues reported in the SIC.</p> <p>* There is no audit committee but the core functions of an audit committee have been identified and are being undertaken by a member group.</p> <p>* The council has an internal audit function that operates in accordance with the CIPFA code of practice for internal audit in local government.</p>	<p>* The council has put in place an assurance framework that maps the council's strategic objectives to risks, controls and assurances.</p> <p>* The assurance framework provides members with information to support the SIC.</p> <p>There is a specific member group (such as an audit sub-committee or member panel) which has audit and governance issues as the principal responsibility in its terms of reference.</p> <p>The member group provides effective leadership on audit and governance issues. It is proactive and has a forward looking programme of meetings and agenda items to ensure comprehensive coverage of all responsibilities in relation to the internal control environment.</p> <p>The procedure notes/manuals for those systems identified by the council as being business-critical are reviewed and updated at least annually.</p> <p>The standing orders, standing financial instructions and scheme of delegation are reviewed at least annually.</p>	<p>The assurance framework is fully embedded in the council's business processes.</p> <p>The council can demonstrate corporate involvement/in-ownership of the process for preparing the SIC.</p> <p>There is an audit committee which is constituted as a full committee of the council and is independent of both the Executive and Scrutiny functions.</p> <p>The council has taken steps to ensure that the audit committee chair either has previous knowledge of, or has received appropriate training on, financial and risk management, accounting concepts and standards, and the regulatory regime.</p> <p>Audit committee members are provided with specific training relevant to their responsibilities.</p> <p>The audit committee has terms of reference which are reviewed on an annual basis, taking into account relevant governance developments and how it integrates with other committees within the</p>

Audit Committee Terms of Reference

Audit Activity

To consider the Head of Internal Audit's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements.

To consider summaries of specific internal audit reports as requested.

To consider reports dealing with the management and performance of the providers of internal audit services.

To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale.

To consider the External Auditor's annual letter, relevant reports and the report to those charged with governance.

To consider specific reports as agreed with the external auditor.

To comment on the scope and depth of external audit work and to ensure it gives value for money.

To liaise with the Audit Commission over the appointment of the Council's External Auditor.

To commission work from internal and external audit.

Regulatory Framework

To maintain an overview of the Council's Constitution in respect of rules of procedure relating to contracts, financial regulations and financial procedures and codes of conduct and behaviour.

To review any issue referred to it by the Chief Executive or a Director or any Council body.

To monitor the effective development and operation of risk management and corporate governance in the Council.

To monitor Council policies on “Confidential Reporting” and the anti-fraud and anti-corruption strategy and the Council’s complaints process.

To oversee the production of the authority’s Statement of Internal Control and to recommend its adoption.

To consider the Council’s arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.

To consider the Council’s compliance with its own and other published standards and controls.

To review arrangements for delivering value for money.

Accounts

To approve the annual statement of accounts. Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.

To consider the External Auditors report to those charged with governance on issues arising from the audit of the accounts.

Decision Making Procedure Rules and Sub Delegation

1 Divisional Schemes

1.1 The Constitution includes a range of delegations to Directors. Directors should identify which senior staff shall exercise these delegations, both on a day to day basis and in the event of the absence of the Director.

1.2 These arrangements shall be recorded in writing by each Director as their Divisional scheme, which shall be deposited with the Head of Democratic Services who shall hold them on behalf of the Monitoring Officer.

1.3 A Divisional scheme may involve specific delegations to individual senior officers or generic delegations to a group of officers. It is for each Director to decide what is reasonable in the context of their Division's requirements and staffing structure. It would be reasonable for a Director to delegate many of his delegated powers to the Division's second tier staff but not appropriate to re-delegate on a general basis to a wide range of staff.

2 Records of Decisions

2.1 Directors and senior managers are taking decisions on a regular basis and the general nature of the delegations included in the Constitution provides authority for these decisions. Certain classes of decisions and the reasons for them should be recorded in writing in order that they can be defended if challenged (either informally or through the Courts) and to protect Directors and managers from any suggestion that they are abusing their authority.

2.2 Given that Officers shall be taking a wide range of managerial, service and statutory decisions it is not possible to identify all cases where a formal record, including reasons, should be retained. The following classes of decision, which are not mutually exclusive, provide a guide as to those where a specific record including reasons should be retained.

- i. Statutory Determinations
- ii. Any decision which is prejudicial to the rights or interests of an individual or a third party
- iii. Any decision which is likely to be challenged
- iv. Any decision to issue a formal Notice or instigate a formal procedure
- v. Decisions involving recruitment, disciplinary action or any decision which is prejudicial to the interests of an individual or a group of staff (Human Resources policies should be applied)
- vi Any decision requiring the execution of formal documentation by Legal Services.

2.3 Decisions and their reasons shall be recorded by either

- (a) A decision letter setting out reasons and signed by a manager with delegated authority, or
- (b) An internal memorandum setting out reasons and a recommendation to a manager with delegated authority and then endorsed as “approved” and signed and dated by that manager.

2.4 The decision documentation should then be retained (in hard or electronic form.) The Head of Legal Services shall require a copy of the documentation when executing formal documentation on such matters.

3.3 The officer with delegated authority must be either the Director or a senior manager given delegated authority under the Divisional scheme referred to in paragraph 1 above.

3.4 As with a report to the Executive or a Committee for decision the reasons given should show that the Authority (acting through the delegated manager) has had regard to all appropriate considerations in reaching a decision. This must include all those that the Council is required to consider by statute (such as human rights) as well as those that are required by good practice. The general approach adopted in Committee reports may be a helpful guide.

Part 3

Responsibility for Functions

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2	Responsibility for Council Functions
3	Officer Delegation
4	Other Miscellaneous Delegations
5	Designation of 'Proper Officers'

Responsibility for Functions

1. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

Function	Decision making body	Membership	Delegation of functions
1. Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 2 of the Local Authority (Functions and Responsibilities) (England) Regulations 2000.	Council	50 Members of the authority	
2. The determination of an appeal against any decision made by or on behalf of the authority.	Council unless delegated to a committee		
3. 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.	Scrutiny	16 Members of the authority	Preparation of Reviews - All Directors
4. Any function relating to contaminated land.	Council	50 Members of the authority	Director of Regulatory Services
5. The discharge of any function relating to the control of pollution or the management of air quality	Council		Director of Regulatory Services
6. The service of an abatement notice in respect of a statutory nuisance.	Council		Director of Regulatory Services
7. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Council		Director of Regulatory Services
8. The inspection of the authority's area to detect any statutory nuisance.	Council		Director of Regulatory Services
9. The investigation of any complaint as to the existence of a statutory nuisance.	Council		Director of Regulatory Services
10. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Council		Director of Regulatory Services

Function	Decision making body	Membership	Delegation of functions
11. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Council		Director of Regulatory Services
12. The appointment of any individual - (a) to any office other than an office in which he is employed by the authority; (b) to any body other than - (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-sub-committee of such a body.	Council		Chief Executive
13. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.	Council		

2. RESPONSIBILITY FOR COUNCIL FUNCTIONS

DEVELOPMENT CONTROL COMMITTEE

16 Members of the authority

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Planning and Conservation

1. 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 (the Functions Regulations).
2. Within the framework of Council policy, and having regard to the Development Plan, other planning guidance and development briefs approved by the Council to consider and determine applications for permission required under development control, control of advertisements, tree and building preservation and conservation, hazardous substances consent, and Building Regulations, and to authorise the making of Orders and Agreements and the issue of Notices in connection with development control, building control, trees and listed buildings.

LICENSING COMMITTEE

15 Members of the authority

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Taxi, ~~gambling~~, gaming, entertainment, food and miscellaneous licensing

1. Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations.
2. Within the framework of Council policy to issue, refuse, vary, suspend, revoke, make standard conditions and/or make specific conditions, with regard to all licences and registrations and permits.

HUMAN RESOURCES COMMITTEE

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7 Members (including at least 1 Member of the Executive)

1. *To consider and determine appeals relating to dismissal, grading and grievance by employees of the Council.*
2. *To consider and determine redundancy payments and other severance payments.*

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To determine and review the terms and conditions and human resources policies on behalf of the Council.

HUMAN RESOURCES PANEL

3 Members

1. To consider any findings of independent investigating officers concerning harassment claims and to determine any consequential outcome in accordance with the Council's relevant policy.

LICENSING SUB-COMMITTEES

3 Members

1. To consider licensing applications and carry out all functions under the Licensing Act 2003 except the determination of the statement of licensing policy under section 5 of the Act and any other function discharged by a committee.

Deleted: **PUBLIC ENTERTAINMENTS LICENSING SUB-COMMITTEE**

7 Members .

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To consider and determine applications for the issue or renewal or variation of public entertainment licences.

STANDARDS COMMITTEE

1 District Councillor from each political party with more than 5 Members, 1 Town Council Member, 1 Parish Council Member and 2 Independent Members.

1. The promotion and maintenance of high standards of conduct within the Council

2. To advise the Council on the adoption or revision of its Code of Conduct.
3. To monitor and advise the Council about the operation of its Code of Conduct in the light of best practice, changes in the law, guidance from the Standards Board and recommendations of case tribunals under Section 80 of the Local Government Act 2000.
4. Assistance to Members and co-opted Members of the authority.
5. To ensure that all members of the Council have access to training in all aspects of the Member Code of Conduct, that this training is actively promoted, and that Members are aware of the standards expected from local councillors under the Code.

Other functions

Functions relating to standards of conduct of Members under any relevant provision of, or regulations made under, the Local Government Act 2000:

- a) Submissions of recommendations to the Council on a Code of Practice on relations between Members and officers;
- b) Consideration of the Council's procedures for investigating and responding to complaints;
- c) Overview of 'whistleblowing' policy.
- d) [Audit Activity](#)

[Audit Committee](#) [Terms of Reference](#)

[Audit Activity](#)

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To monitor Council policies on "Confidential Reporting" and the anti-fraud and anti-corruption strategy and the Council's complaints process.

To oversee the production of the authority's Statement of Internal Control and to recommend its adoption.

To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.

To consider the Council's compliance with its own and other published standards and controls.

To review arrangements for delivering value for money.

Accounts

To review the annual statement of accounts. Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.

To consider the External Auditors report to those charged with governance on issues arising from the audit of the accounts.

3. **OFFICER DELEGATION**

A. **CHIEF EXECUTIVE, DIRECTORS, AND ALL HEADS OF SERVICE**

THE FOLLOWING DELEGATIONS APPLY TO THE CHIEF EXECUTIVE, DIRECTORS, HEADS OF SERVICE OR THEIR DULY AUTHORISED OFFICERS (WHERE PARTICULAR OFFICER(S) IS/ARE INVOLVED THIS IS INDICATED).

1. In accordance with the Council's Constitution, the management and administration of the services for which they are responsible and the incurring of expenditure for such purposes within approved estimates and in accordance with the Financial Regulations and Rules of Procedure Relating to Contracts. This shall include authorising the Chief Executive, Directors, and Heads of Service to take such action as is necessary, within approved budgets, procedures and business plans, to implement the decisions and policies of the Council, and ensure the timely progress of Best Value reviews within their remit.
2. To dispose of surplus or obsolete stock and equipment at the best prices obtainable in accordance with the procedures agreed with the Director of Resources
3. To serve requisitions for information as to the ownership of property under the various statutory provisions where necessary.
4. To give written notice seeking deemed planning permission for proposed development to be carried out by the Council.
5. The appointment and operational management of all categories of staff, for whom they are responsible.
6. The designation of officers for authorisation of the payment of accounts.
7. To take disciplinary action, in relation to staff for whom they are responsible, in accordance with the Council's Disciplinary Procedure.

8. The authorisation of attendance or secondment of employees on courses or seminars, etc, within the approved Training Plan.
9. The authorisation of carrying forward of annual leave from one year to the next up to 5 days per annum.
10. The determination of ex gratia payments in respect of damage to, or loss of, employees' personal property up to £200 and, in consultation with the appropriate Portfolio Holder, for all other amounts.
11. To transfer expenditure between budget areas, providing this is within their approved budget and within the expenditure unit, having informed the Director of Resources before actioning this.
12. To approve the attendance of Officers at conferences/seminars, which are not included in the Standing List of Conferences.

B. **CHIEF EXECUTIVE**

1. To act as Registration Officer pursuant to the Representation of the People Acts 1983-2000 for those parliamentary constituencies within the District of East Hertfordshire.
2. To act as Returning Officer for the elections of councillors of the District of East Hertfordshire and those parishes within the District.
3. To act as Head of Paid Service pursuant to Section 4 of the Local Government and Housing Act 1989.
4. In consultation with the Director of Organisational Development, to consider and determine applications by employees relating to salary grading.
1. All matters relating to staffing, employment, terms of conditions and industrial relations for the Council's workforce, save those matters relating to the Head of Paid Service and Chief Officers as specified elsewhere in the Constitution and appeals matters handled by the Human Resources Sub-Committee.

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2. To issue redundancy notices immediately it becomes apparent that redundancies are likely to arise, subject to any policy constraints which may be applied from time to time.

7. To make closure of noisy premises orders under the Anti-social Behaviour Act 2003.

D. **DIRECTORS**

1. In consultation with the Director of Resources the granting of awards to employees under the Long Service Award Scheme.
2. The granting of leave of absence without pay for periods not exceeding three months and special leave with pay on compassionate grounds.
3. In consultation with the appropriate Director and following a report to Corporate Management Team, to give consent to Officers graded above Scale Point 28 to engage in any other business or take up any other additional appointment pursuant to Paragraph 71 of the National Conditions of Services.
4. To dismiss staff in accordance with the Council's disciplinary procedure.
5. In consultation with the Leader of the Council, to settle complaints to the Local Ombudsman, or the formal complaint procedure where applicable, through an ex gratia payment of compensation not exceeding £1,000 per case.
6. To act on the Council's behalf and to commit the Council to such course of action as may be considered appropriate in order to respond to an emergency event including chemical or biological terrorism or similar incident requiring concerted action.
7. To authorise prosecutions subject to the Director of Corporate Governance being satisfied as to the sufficiency of evidence in appropriate cases.
8. To authorise staff possessing such qualifications as may be required by law or in accordance with the Council's policy and having the necessary competency and experience, to carry out surveillance, to take samples, carry out inspections, enter

premises, form opinions and generally perform the functions of a duly authorised officer of the Council (however described) under the enactments and regulations contained in Part 3, G and H, including applications for warrants to enter property. In relation to any powers which require to be dealt with by a Solicitor of the Supreme Court, this power shall be delegated to the Director of Corporate Governance.

9. To enter into compromise agreements in their area or in another area.
10. To authorise payment of the local award (5% salary) to those employees whose performance is considered by the relevant Director and the Corporate Management Team to be entirely satisfactory, in accordance with current policy.
11. To appoint/nominate persons to serve on outside organisations as representatives of the District Council.

E. **DIRECTOR OF CORPORATE GOVERNANCE**

1. To institute and defend legal proceedings.
2. To settle disputes and litigious actions.
3. To apply for warrants to enter property.
4. To authorise the appearance of non-admitted legal staff, within his section, in the Magistrates Court in accordance with the provisions of Section 223 of the Local Government Act 1972.
5. In consultation with the Director of Regulatory Services to determine applications under Sections 191 and 192 of the Town and Country Planning Act 1990 for lawful development certificates.
6. To issue Stop Notices and take further enforcement action, where the Development Control Committee has authorised action, and, in other cases, give a direction under article 4 of the Town and Country Planning (General Permitted Development) Order 1995, issue Enforcement Notices and Stop Notices subject to such action being taken following consultation with the Director of Regulatory Services, and to such action being reported to the next

meeting of the Development Control Committee, in order to enable the Committee to concur, modify, or enforce such Notice as it considers necessary.

7. To apply for injunctions in appropriate cases where there are any breaches of planning control, Tree Preservation Orders, or Listed Building and Conservation legislation where it is felt that contravention of planning or building control has taken place, and to give any undertakings in damages in such cases.
8. To issue Breach of Condition Notices in consultation with the Director of Regulatory Services.
9. After consultation with the Director of Regulatory Services to enter into Agreements with the developers in accordance with planning legislation.
10. To rearrange dates and times of meetings, previously approved at the Annual Meeting of the Council, following consultation with the Leader of the Council; such action being necessary in the interests of the efficient running of the Council.
11. To execute documents under seal.
12. To issue a Certificate of Opinion in connection with the Local Government and Housing Act 1989 – Politically Restricted Posts.
13. To exercise powers and duties under the Anti-social Behaviour Act 2003.

F. DIRECTOR OF ORGANISATIONAL DEVELOPMENT

1. Human Resource matters shall be subject to the overall direction of the Head of Paid Service.
2. The administration and implementation, in consultation with Directors, of the Council's organisational, employee development and human resource plans.
3. The interpretation and application of pay scales and conditions of service for all employees.

4. Applications, in consultation with the appropriate Directors, for extensions of service.
5. The administration of any schemes for awards to employees making suggestions which could affect economies and improve efficiency.
6. To administer the Council's car leasing scheme subject to such financial and policy constraints as may be applied from time to time.
7. To determine applications for extensions of sick pay subject to the agreement of the Chief Executive.
8. To award accelerated increments within Scales 1, 2 and 3 in recognition of approved examination success and individual merits in accordance with the Council's current policy.
9. The determination of car allowances in accordance with the criteria adopted by the Council in accordance with the Council's current policy.

G. **DIRECTOR OF REGULATORY SERVICES, HEAD OF DEVELOPMENT CONTROL DEVELOPMENT CONTROL MANAGERS, PLANNING ENFORCEMENT MANAGER OR THEIR DULY AUTHORISED OFFICERS (WHERE A DEVELOPMENT CONTROL MANAGER IS THE LEAD OFFICER OR CASE OFFICER DELEGATION SHALL BE TO THE HEAD OF DEVELOPMENT CONTROL)**

1. To determine planning, Listed Building, Conservation Area Consent, reserved matters and advertisement applications except where the application:
 - (i) is a major development as defined in the Town and Country Planning (General Development Procedure) Order 1995;
 - (ii) is a departure from the Development Plan and is recommended for approval;
 - (iii) is by a Member of the Council;

- (iv) is by an officer of the Council;
 - (v) is one where a Member considers that delegated powers should not be exercised by the Director of Regulatory Services in which case the Member must notify and obtain the written agreement of the Chairman of the Development Control Committee in writing stating the reasons why he/she should not determine the application.
2. To serve Planning Contravention Notices where it appears that a contravention of planning control has taken place.
 3. To make provisional Tree Preservation Orders and to confirm them when they are unopposed.
 4. To issue Breach of Condition Notices and Notices under Section 215 of the Town and Country Planning Act 1990 in consultation with the Director of Corporate Governance.
 5. To exercise the Council's powers under Section 70(a) of the Town and Country Planning Act 1990, by declining to determine an application for planning permission for the development of any land where, within a period of two years, ending with the date on which the application is received, the Secretary of State has refused a similar application referred to him under Section 77, or has dismissed an appeal against the refusal of a similar application, and where, in the opinion of the Director of Regulatory Services, there has been no significant change since the refusal or dismissal in the Development Plan or in any other material considerations.
 6. The consideration, approval and payment of grants in respect of Listed Buildings and Conservation Areas.
 7. To exercise the Council's planning powers for control of demolition.
 8. To determine commuted car parking payments for planning applications.
 9. To approve or reject plans submitted as minor amendments to planning applications previously submitted and approved, subject to consultation with the local Member(s) concerned in accordance

with the Council's procedure in force for the time being.

10. To make Tree Preservation Orders, and to determine applications for consent for the cutting down, topping or lopping of trees applications under the Hedgerow Protection legislation and exercise the powers and duties relating to high hedges under the Anti-social Behaviour Act 2003.
11. To determine applications for certificates of appropriate alternative development.
12. To determine, in consultation with the Director of Corporate Governance, applications for certificates of lawful use and development.
13. In cases of urgency and subject to consultation with the Chairman, to arrange for the serving of building preservation notices, enforcement notices, temporary stop notices and Directions under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995, stop notices and directions relating to unlisted buildings in conservation areas.
14. To make observations on development proposals by Government Departments, statutory undertakers and Hertfordshire County Council, which are substantially in accordance with the Council's policies and are not likely to be controversial.
15. To advertise in the local press applications required to be advertised by statute or orders or regulations made thereunder, planning applications and applications for listed building consent.
16. To advertise in the local press and/or by a notice on site, at the discretion of the Director of Regulatory Services, applications for planning permission as required by any Development Order made by the Secretary of State.
17. After consultation with the Chairman of the Development Control Committee and the Director of Corporate Governance institute legal proceedings in respect of the contravention of Tree Preservation Orders and unauthorised works to trees in Conservation Area.

Deleted: for the Environment

DELEGATION:

Director of Regulatory Services and Director (Direct & Contract Services)

18. To authorise, after consultation with the Director of Corporate Governance an officer to enter land at any time for enforcement purposes in cases where admission has been refused or a refusal is expected or in cases of urgency.
19. To apply for warrants to enter property.
20. To authorise the institution of legal proceedings subject to the Director of Corporate Governance being satisfied to the sufficiency of the evidence. (This delegation applies to the Director of Regulatory Services only).
21. To issue Stop Notices and take further enforcement action, where the Development Control Committee has authorised action and, in other cases, issue Enforcement Notices and Stop Notices subject to such action being taken following consultation with the Director of Corporate Governance and to such action being reported to the next meeting of the Development Control Committee, in order to enable the Committee to concur, modify, or enforce such Notice as it considers necessary.
22. To apply for injunctions in appropriate cases where there are any breaches of planning control, Tree Preservation Orders, or Listed Building and Conservation legislation where it is felt that contravention of planning control has taken place, and to give any undertakings in damages in such cases.
23. After consultation with the Director of Corporate Governance, to enter into Agreements with the developers in accordance with planning legislation.
24. To determine applications as to whether prior approval is required to the siting, design and external appearance of development.
25. To determine whether or not it is expedient to take enforcement action where a breach of planning control has occurred, save where a Member requests, with the agreement of the Chairman.

26. To give screening opinions and scoping opinions under the Town and Country Planning (Environmental Assessment) Regulations 1999 as amended.

H. **DIRECTOR OF REGULATORY SERVICES OR DULY AUTHORISED OFFICERS**

1. To exercise the Council's functions relating to hackney carriage/private hire licensing under the Town Police Clauses Act 1847 and 1889, the Local Government (Miscellaneous Provisions) Act 1976, the Transport Act 1985 and the Council's Standard Conditions applicable to Hackney Carriage and Private Hire Vehicles, Private Hire Operators and Private Hire Drivers and the Council's Hackney Carriage Byelaws.
2. To exercise the powers of the Council as registration authority including the issue, renewal and transfer of all licences and registrations listed in Schedule I below, upon appropriate conditions.
3. The issue of occasional permissions in respect of those licences listed in Schedule I upon appropriate conditions.
4. To authorise officers to sign licences listed in Schedules I and II.
5. The variation of licence conditions in respect of:
 - (i) those licences listed in Schedule I;
 - (ii) those individual licences listed in Schedule II where there are no objections.

Schedule I:

Betting and Gaming Permits including:

Amusements with prizes

Small Lotteries

Pools promoters

Betting Tracks

Gaming Licences

Charitable Collection Permits including:

Street Collections
House to House Collections

Game Licences
Motor Salvage Operators
Theatres Licences

Schedule II:

Licences under the Licensing Act 2003, Gambling Act 2005

Deleted: Entertainment
Licences,

Cinema Licences, Theatre Licences,
Sex Shop Licences, Late Night Refreshment Houses Licences and
Street Trading consents.

6. Pursuant to Section 223 of the Local Government Act 1972 to authorise and institute proceedings in any Magistrates Court in respect of offences or other matters falling within the legislation in Appendix A (below) (subject to the Director of Corporate Governance being satisfied as to the sufficiency of the evidence).
7. To authorise officers to exercise powers and duties falling within the legislation referred to at Appendix A (below), including applications for warrants to enter property, subject where appropriate to officers possessing such qualifications as may be required by law or in accordance with the Council's policies and having the necessary competency and experience.
8. To authorise suitably qualified and experienced officers to serve and sign in their own name all improvement notices, prohibition notices, decision, other notices with respect to food safety, health and safety, private sector housing, public health, building control and other legislation in Appendix A.
9. To authorise officers who are suitably qualified and experienced to serve and sign in their own name all authorisation, variation, revocation, enforcement and prohibition notices under local authority pollution control enforcement.
10. To authorise such staff who are competent, suitably qualified and experienced to discharge the functions of the local authority relating to the appointment and duties of Officers in Appendix A.
11. To appoint as inspectors such persons having suitable qualifications as he or she thinks necessary for carrying into effect

the provisions of the Environmental Protection Act 1990 and to terminate any appointment made, pursuant to Section 16 of the 1990 Act.

12. To instruct, on behalf of the Council, such veterinary surgeon(s) as may be appropriate from time to time, based on the specific knowledge required. That any Consultant Veterinary Surgeon so instructed on behalf of the Council be authorised to enter any premises to advise as necessary on action to be taken under the animal welfare legislation listed in Appendix A.
13. To nominate officers for the Council in respect of Notifiable Disease and food poisoning and for action under Section 47 of the National Assistance Act 1948.
14. Pursuant to Section 19 of the Health and Safety at Work etc Act 1974, to appoint as Inspectors such persons having suitable qualifications as he or she thinks necessary for carrying into effect the provisions of the Act and to terminate any appointment made; and pursuant to Section 39 of the Health and Safety at Work etc 1974, to authorise any such Inspectors to prosecute before a Magistrates Court for any offence under the said Act or Regulations made thereunder.
15. To arrange for other people to accompany Inspectors on Inspections of work places under the provisions of the Health and Safety at Work etc Act 1974.
16. To endorse any agreed transfers of enforcement responsibility for any particular premises, or parts of premises, or any particular activities carried on in them, from the Health and Safety Executive to the Council, or vice versa.
17. To submit, following consultation with the Director of Regulatory Services, objections in connection with applications relating to Operators' Licences where it appears that the grant or variation of such a licence would be prejudicial to the public interest on environmental, traffic or highway grounds.
18. To give directions and make applications to the Magistrates Court in respect of unauthorised campers in the District.

19. To undertake prosecutions of hackney carriage drivers and private hire vehicle drivers for road traffic offences and other drivers for criminal offences relating to taxi ranks.
20. To authorise officers to discharge the functions in the European Communities Act 1972 and in particular the following Regulations made under that Statute:
 - Products of Animal Origin (Third Country Imports) (England) Regulations 2003 (as amended)
 - Products of Animal Origin (Import and Export) Regulations 1996
 - TSE (England) Regulations 2002, Meat (Enhanced Enforcement Powers (England) Regulations 2000
 - Miscellaneous Products of Animal Origin (Import Conditions) Regulations 1999
 - Food Hygiene (England) Regulations 2006
21. The Head of Building Control shall be the Appointing Officer for the purposes of the Party Wall Act 1996
22. The Head of Building Control shall determine the Building Regulation Fees charged by the Council.

The following enactments and regulations made under these Acts:

APPENDIX A

Animal Boarding Establishments Act 1963
[Anti-social Behaviour Act 2003](#)
 Betting, Gaming and Lotteries Act 1963
 Breeding of Dogs Act 1973
 Breeding of Dogs Act 1991
 Building Act 1984
 Caravan Sites Act 1968
 Caravan Sites and Control of Development Act 1960
 Cinemas Act 1985
 Clean Air Act 1993
[Clean Neighbourhoods and Environment Act 2004](#)
 Control of Pollution Act 1974
 Criminal Justice and Public Order Act 1994
 Dangerous Dogs Act 1991
 Dangerous Wild Animals Act 1976

Deleted: Dogs (Fouling on Land) Act 1996

Environment Act 1995
Environmental Protection Act 1990
European Communities Act 1972
Factories Act 1961
Food and Environmental Protection 1985
Food Safety Act 1990
[Gambling Act 2005](#)
Game Act 1831
Game Licences Act 1860
Gaming Act 1968
Guard Dogs Act 1975
Health & Safety at Work Etc Act 1974
Home Energy Conservation Act 1995
Housing Act 1985 (as amended)
Housing Act 1996
Housing, Grants, Construction and Regeneration Act 1996
Housing Act 1988
Housing Act 2004
Hypnotism Act 1952
Late Night Refreshment Houses Act 1969
Licensing Act 1964
[Licensing Act 2003](#)
Local Government (Miscellaneous Provisions Act) 1976
Local Government (Miscellaneous Provisions Act) 1982
Local Government Act 1972
Local Government Act 2000
Local Government and Housing Act 1989
Lotteries & Amusements Act 1976
Noise & Statutory Nuisances Act 1993
Offices, Shops and Railways Premises Act 1963
Party Wall etc Act 1996
Pet Animals Act 1951 and 1983
Prevention of Damage by Pests Act 1949
Private Places of Entertainment (Licensing) Act 1967
Protection from Eviction Act 1977
Public Health (Control of Diseases) Act 1984
Public Health Act 1936
Public Health Act 1961
Rags, Flock and Other Filling Materials Act 1951
Refuse Disposal (Amenity) Act 1978
Riding Establishments Act 1964
Riding Establishments Act 1970
Road Traffic Act 1988

Scrap Metal Dealers Act 1964
Sunday Entertainment Act 1932
Sunday Theatre Act 1972
Sunday Trading Act 1994
Theatres Act 1968
Transport Act 1985
Vehicles (Crime) Act 2001
Water Industry Act 1991
Zoo Licensing Act 1981

4. **OTHER MISCELLANEOUS DELEGATIONS**

HEALTH

1. In accordance with the legislation falling within the duties and responsibilities of the Council's environmental health functions to all physicians working as consultants in public health medicine and employed by the Health Protection Agency or the Primary Care Trusts in Hertfordshire:
 - (a) act as proper officer to the Council in respect of all matters relating to the control of the spread of infectious diseases;
 - (b) provide medical input and advice to the Council

DELEGATION:

All physicians working as consultants in public health medicine and employed by the Health Protection Agency or a Primary Care Trust in Hertfordshire.

Chief Executive

2. In accordance with the duties imposed on the Council under Section 47 of the National Assistance Act 1948 the Council to engage the services of a Medical Practitioner for the purposes of securing the removal to suitable premises of persons in need of care and attention.

DELEGATION:

Chief Executive

MARKETS

1. In consultation with the Director of Policy and Performance to seek injunctions and take all such proceedings as may be necessary to secure the cessation of any unauthorised non charitable markets operating on a commercial basis.

DELEGATION:

Director of Corporate Governance

PARKS, OPEN SPACES AND ABANDONED VEHICLES

1. Restriction of the use or closure of bowling greens during periods of drought.
2. Control of the all grounds including Castle Gardens and Grounds at Bishop's Stortford and Hertford.
3. The letting of Council gardens and car parks.
4. The removal, storage and disposal of abandoned vehicles under the Refuse Disposal (Amenity) Act 1978

DELEGATION:

Director of Policy and Performance

HIGHWAYS

1. In consultation with the Director of Corporate Governance, to authorise appropriate action to be taken in respect of any contravention of any Order made under Section 35 of the Road Traffic Regulation Act 1984 (as amended) by persons at any car park(s) detailed within such an Order, subject to the outcome of any legal proceedings taken being reported to a subsequent meeting.
2. To investigate all requests received for road humps and make the necessary application(s) to the County Surveyor for funds, where the sites meet the criteria.
3. To pass the local Ward Member(s) any requests received for additional works or investigations for comment prior to their consideration at a meeting of the Highways Joint Member Panel.
4. To charge users a fixed charge equivalent to the charge for the first variable charging period on those occasions when a short stay car park's variable charge equipment is temporarily out of commission.
5. To authorise the use of the Council's off-street car parks by

commercial and non-commercial organisations on Sundays only, and to determine the charge to be levied in such circumstances.

6. To waive car park charges in all the Council's car parks, on one day before Christmas, each year subject to the Town Councils concerned nominating which day was required.

DELEGATION:

Director of Policy and Performance

STREET CLEANSING, WASTE COLLECTION ANTI-SOCIAL BEHAVIOUR AND MANAGEMENT AND DOGS

1. To administer the Scheme for the collection of trade refuse.
2. Approval of types and siting of litter bins provided by Parish and Town Councils.
3. To determine, in the first instance, whether street cleansing is necessary in the interests of public health or the amenity of the area pursuant to the Environmental Protection Act 1990 Code of Practice on litter and refuse.
4. To deal with requests for the provision of signs to prohibit litter or other nuisances within the highway or car parks, in consultation with the Leader.
5. The Head of Contract Services and Waste Management Officer be identified as contact officers for the public under the Code of Practice of the Environmental Protection Act 1990.
6. In consultation with the Director of Corporate Governance to serve Street Litter Control Notices, as appropriate in accordance with the provisions contained in Part IV of the Environmental Protection Act 1990 and serve notices under Section 215 of the Town and Country Planning Act 1990.
7. Pursuant to Section 223 of the Local Government Act 1972 to authorise and institute proceeding in any Magistrates Court in respect of officers or other matters falling within the legislation in Appendix B (subject to the Director of Corporate Governance

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being satisfied as to the sufficiency of the evidence).

8. To authorise officers to exercise powers and duties falling within the legislation referred to in Appendix B (below) where appropriate to officers possessing such qualifications as may be required by law or in accordance with the Council's policy and having the necessary competence and experience.
9. To authorise officers to serve and sign in their own name all authorisation, variation, revocation and enforcement and other notices falling within the legislation referred to in Appendix B (below).

APPENDIX B

[Anti-social Behaviour Act 2003](#)

[Clean Neighbourhoods and Environment Act 2005](#)

[Environmental Protection Act 1990](#)

[Prevention of Damage by Pests Act 1949](#)

[Refuse Disposal \(Amenity\) Act 1978](#)

Dangerous Dogs Act 1991

Dogs (Fouling of Land) Act 1996

Guard Dogs Act 1975

DELEGATION:

Director of Policy and Performance

Director of Regulatory Services

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SOCIAL HOUSING (MANAGEMENT)

1. In all cases involving arrears of mortgage payments and in consultation with the Director Corporate Governance to institute proceedings in the appropriate Court to obtain an order for possession of the property and/or recovery of all monies remaining outstanding under the mortgage, legal charge or further charge as the case may be.
2. In relation to the recovery of contributions to the cost of sewerage services in respect of Council Houses which are sold:

- (a) To determine actual annual costs and payments on account
- (b) In consultation with the Executive, to make special arrangements in the case of hardship or, where necessary, to comply with an existing agreement

- 3. The appointment of Bailiffs and the issue of warrants to any bailiff so appointed and taking such steps as may be necessary, including the levying of distress upon the goods and chattels of the tenant concerned, for the recovery of arrears of rent owing to the Council in respect of the occupation of any Council dwelling under the control of the Director of Policy and Performance.

DELEGATION:

Director of Resources

- 4. The allocation of properties for letting in accordance with the Council's policy.
- 5. The institution, in consultation with the Director of Corporate Governance of legal proceedings for the recovery of arrears of rent owed by any tenant of a Council dwelling.
- 6. The service of Notice of Seeking Possession upon the tenant of any Council dwelling where that is considered necessary in accordance with one or more of the grounds for possession set out in Schedule 2 of the Housing Act 1985 (as amended by Housing Act 1996), provided that no action be taken to apply for an order for possession of the property concerned without the specific prior approval of the Executive.
- 7. The termination of agreements for letting of garages and parking spaces on Council land by the service of notice to quit in cases of arrears of rent or other breach of the conditions of tenancy.
- 8. To let houses, flats and garages and to give consent to assignments in respect of residential properties which are subject to long leases.
- 9. To increase the charges for single persons and married couples occupying bed and breakfast accommodation under the terms of

Part VII of the Housing Act 1996 in line with and at the same time as increases are made in the charge to the Council for hostel accommodation.

10. Any such other Officers as may be appointed, be authorised to determine all applications received under Part VII of the Housing Act 1996.
11. In all cases where information has been obtained from a member of the medical profession or from a health visitor in relation to an application for housing to determine the necessity in each case to seek the applicant's(s') consent to any disclosure of such information.
12. To determine applications from the leaseholders of Council residential accommodation to:
 - (a) carry out alterations to the exterior walls subject to:
 - (i) all components being in low maintenance or maintenance free materials with lessees to bear any additional maintenance costs arising from the works,
 - (ii) the alterations complying with current building regulations,
 - (iii) access to common services being maintained without the need to go inside the extension,
 - (iv) a deed or variation making the leaseholder or his successor individually responsible for the extra cost of maintenance of the extension,
 - (b) undertake extensions, if deemed appropriate, subject to:
 - (i) extensions having a pitched tiled roof,
 - (ii) replacement/new windows being in UPVC,

- (iii) extensions being within the confines of the existing boundaries of the property contained within the lease, both horizontally and vertically,
- (iv) materials to match as far as possible the existing structure and the form of construction to be similar,
- (v) any extension to be for domestic/residential use only and must not at any time be used as a separate dwelling,
- (vi) a deed of variation making the leaseholder or his successor individually responsible for the extra cost of maintenance of the extension,
- (vii) no extensions to cover common rights of way.

The Executive would determine any appeals made by lessees against decisions arising from the exercise of this power.

13. To grant approval for schemes submitted by Housing Associations, and be the Council's approved signatory for such schemes, subject to liaison with the Director of Resources as necessary; in addition, the Head of Community Development be designated an authorised signatory on behalf of East Hertfordshire District Council for Housing Corporation Scheme Approval and Grant Claims.

DELEGATION:

Director of Policy and Performance

14. Where notices have been served under Section 83 of the Housing Act 1985, but arrears of rent are not being paid or suitable arrangements have not been made to clear the arrears, the Director of Corporate Governance, in consultation with the Director of Policy and Performance, be authorised to institute legal proceedings against any such tenants to obtain possession of the properties they occupy and for the recovery of all sums due to the Council, and to take any further action necessary to recover sums due to the Council

under any money judgement obtained from the Court, including an application for an Attachment of Earnings Order where this is deemed appropriate.

15. In consultation with the Director of Policy and Performance and subject to advising the Leader or appropriate Executive Member, authorised to institute proceedings and take all further action necessary to recover possession of Council property which has been occupied by squatters without the Council's licence or authority.
16. In respect of non payment of rent by tenants of commercial properties (including residential accommodation as part of a Lease of such commercial property) and in consultation with the Director of Policy and Performance, to institute proceedings for recovery of rent and other monies owed to the Council, and to take possession of the property.

DELEGATION:

Director of Corporate Governance

17. The payment of grants for housing repair and improvement including the implementation of adaptations to disabled persons dwellings in conjunction with Hertfordshire County Council, in accordance with the relevant Legislation Circular and the Council's policy.

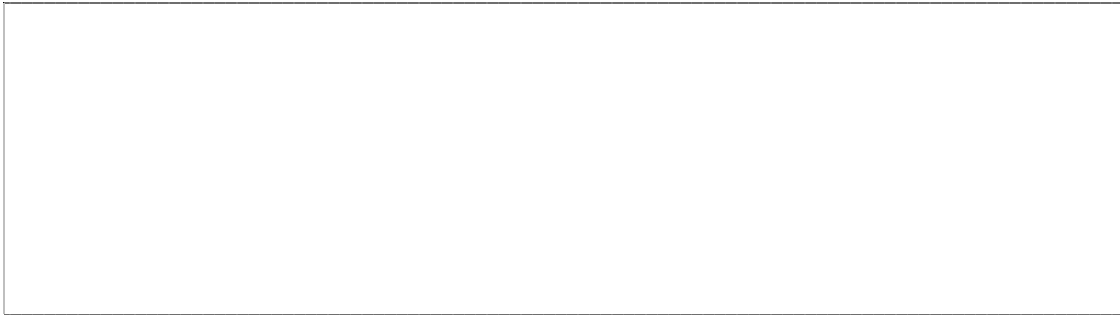
DELEGATION:

Director of Regulatory Services

18. To commit expenditure on repairs and maintenance to properties under the control of the Director of Policy & Performance within the amount included in the revenue estimates as approved by the Council for that purpose.

DELEGATION:

Director of Policy and Performance



ARTS AND LEISURE

1. The Director of Policy and Performance, in consultation with the Executive, be authorised to implement the Council's annual arts award and give grants within budget and in accordance with the Council's policies.

DELEGATION:

Director of Policy and Performance
Environmental Co-ordinator

2. Management and control of Castle Hall, Hertford subject to power to refuse any bookings being in consultation with the Executive.
3. Determination of the dates of Christmas and New Year closures of indoor swimming pools.
4. Authorised to satisfy himself/herself as to the competence and experience of a summer playscheme leader to organise and manage a trip away from a playscheme location in accordance with Guidelines for the Conduct of Summer Playscheme Trips.

DELEGATION:

Director of Policy and Performance

HUMAN RESOURCES

1. Appointment of a Medical Adviser/Proper Officer and a Deputy to act in the absence of the Proper Officer.
2. Responsibility for an effective policy for the health, safety and welfare of Council employees to be implemented at all levels.
3. The determination of car allowances in accordance with the criteria adopted by the Council in accordance with the Council's current policy.
4. To award accelerated increments within Scales 1, 2 and 3 in

recognition of approved examination success and individual merits in accordance with the Council's current policy.

DELEGATION:

Chief Executive

5. To hold and revise the list of politically restricted posts prepared under the Local Government and Housing Act 1989.

DELEGATION:

Director of Corporate Governance

6. To be responsible for the custody of any document required to be published and kept available for public inspection under the Audit Commission Act 1998.

DELEGATION:

Director of Resources

PROPERTY

1. Lettings of all properties (other than houses, flats and garages); consents to assignments and sub-lettings; the granting of easements and licences; entering into leases, sub-leases, licences and easements on behalf of the Council as lessee, sub-lessee, licensee or grantee as appropriate; consent to modification or release of restrictive covenants; rent reviews under existing and future leases, including the approval of terms, subject to reporting transactions half-yearly.
2. To pursue appeals against rating assessments on Council-owned and Council-occupied property which, in his judgement, are incorrect or excessive, and agree either new or revised rating assessments on Council-owned and/or occupied property on behalf of the Council.
3. In consultation with the appropriate Executive to prosecute or authorise the prosecution of persons committing malicious damage to Council property.

4. The letting of Council Offices.
5. To convey the freehold of electricity sub-station sites and to grant the necessary easements to the Electricity Board in respect of the Thorley development and Council Housing developments.

DELEGATION:

Director of Resources

LEGAL

1. In consultation with the Director of Resources and the Executive, to determine requests for contributions towards legal costs incurred, or to be incurred, or by other local authorities, subject to a report being made to a subsequent meeting of the Executive.
2. In consultation with the Director of Regulatory Services to institute proceedings for Anti Social Behaviour Orders under Section 1 of the Crime and Disorder Act 1998.

DELEGATION:

Director (Policy and Performance)

DEMOCRATIC SERVICES

1. To submit a report to the Council or Committee (as the case may be) showing what allocation of seats would, in his/her opinion, best meet the requirements of Section 15(4) of the Local Government and Housing Act 1989, whenever
 - (a) the Council is required to review the allocation of seats on Committees between political groups, or
 - (b) the Council resolves to carry out such a review, or
 - (c) a Committee is required to review the allocation of seats on a Sub-Committee between political groups, or
 - (d) a Committee resolves to carry out such a review:

DELEGATION:

Chief Executive

FINANCE

1. To be responsible for internal audit functions.
2. Appointment of a Bailiff for the whole or part of the area as the need arises.
3. Authorisation of loans for car purchase in accordance with National Conditions of Service.
4. The implementation of any prescription of a body by the Secretary of State pursuant to Section 177(2)(c) of the Local Government Act 1972 in relation to Members' attendance allowances, and
 - (a) Sign cheques and all other financial documents or agreements on behalf of the Council
 - (b) Institute an action considered appropriate to recover any monies due to the Council directly or under Agency arrangements
 - (c) Institute and appear in any legal proceedings relating to the recovery of monies due to the Council directly or under Agency arrangements in accordance with the provisions of Section 223 of the Local Government Act 1972.

DELEGATION:

Director of Resources

5. The Holder for the time being of the following posts:

Director of Resources
Head of Accountancy Services
Principal Accountants (as approved by the Director of Resources
Head of Internal Audit

be authorised to:

Sign Bonds, Bank Transfers and other financial documents, countersign cheques (except the Director of Resources) and authorise amendments to cheques and the

Director of Resources be additionally authorised to:

- (a) Institute any action considered appropriate to recover any monies due to the Council directly or under Agency arrangements
 - (b) Institute and appear in any legal proceedings relating to the recovery of monies due to the Council directly or under Agency arrangements in accordance with the provisions of Section 223 of the Local Government Act 1972.
6. Wherever necessary to amend affected charges for services to take account of changes in VAT or other forms of taxation provided that any action taken shall be reported to the next convenient meeting of the Executive.

DELEGATION:

Director of Resources
Head of Accountancy Services
Principal Accountant (MB)
Principal Accountant (RI)
Head of Internal Audit

6. To vary the rate of interest and issue notices to the Council's mortgages of any changes in the Council's rate of interest.

DELEGATION:

Director of Resources

8. The holders for the time being of the following posts be authorised to institute and appear in any legal proceedings relating to the Valuation and Council Tax Tribunals on behalf of the Council:

Head of Revenue Services
Principal Revenue Officer
Assistant Revenue Officer
Senior Revenue Officer

DELEGATION:

Head of Revenue Services
Principal Revenue Officer
Assistant Revenue Officer
Senior Revenue Officer

9. The holder for the time being of the following post be authorised to institute and appear in any legal proceedings relating to Council Tax and National Non Domestic Rates relating to Valuation Tribunal Appeals:

Head of Revenue Services

DELEGATION:

Head of Revenue Services

10. To carry out all functions arising out of Part II of the Social Security and Housing Benefits Act 1982 (and any amendments thereto) except where legislation requires specific Councillor involvement.
11. To exercise discretion under the 1988 Housing Benefits Scheme to disregard, in determining a person's income, the whole of any war disablement pension or war widow's pension payable to that person.
12. To adjust the fuel allowance for leased cars in light of any significant change in the price of fuel, subject to any adjustment being reported to the next meeting of the Executive.
13. To deal with all applications received for discretionary relief under Section 47 of the Local Government Act 1988 in accordance with the Council's guidelines.
14. To disregard the whole of any war disablement pension or war widow's pension in determining a person's income under the 1989 Community Charge Benefits Scheme and any amendment thereto.
15. To carry out all the charging and collection functions arising out of Parts I to III of the Local Government Finance Act 1988 (and any amendments thereto) except for:

- (a) the determination of discretionary non-domestic rate relief,
 - (b) the writing-off of debts in excess of £2,000,
 - (c) the reduction or remission of liability under Section 49.
16. To write-off all Community Charges, Council Tax and NNDR outstanding, with the exception of a nominal sum of £5 in respect of each arrears payments, which are the subject of formal bankruptcy or liquidation claims.
17. To fix charges for the service of a Summons (Liability Order) for non-payment of Community Charges, Council Tax and NNDR and the issue of a Distress Warrant subject to the approval of the Court.

DELEGATION:

Director of Resources

18. In accordance with the provisions of Section 223 of the Local Government Act 1972:
- (a) the holders for the time being of the following posts be authorised to appear in any legal proceedings relating to Community Charges, Council Tax and National Non-Domestic Rate (NNDR) recovery on behalf of the Council:

Head of Revenue Services
Principal Revenue Officer
Assistant Revenue Officer
Senior Revenue Assistants (3)
and
 - (b) the holder for the time being of the following post be authorised to institute and appear in any legal proceedings relating to Community Charges, National Non-Domestic Rate (NNDR) and Council Tax recovery on behalf of the Council:

Head of Revenue Services, or in his/her absence, the
Principal Revenue Officer

DELEGATION:

Head of Revenue Services
Principal Revenue Officer
Assistant Revenue Officer
Senior Revenue Assistants

19. To administer and manage the Council's Collection Fund.
20. To set precept dates.
21. To take day-day decisions in relation to the Council's external investment fund, in consultation with the Council's external adviser, within the parameters set by the Council
22. To administer the Council's Insurance Fund (subject to the presentation of an annual report to the Executive on its performance and application).
23. To make such determinations as are required under Part IV of the Local Government and Housing Act 1989 and report the action taken to the Executive for information.
24. To take day-to-day decisions in respect of the investment of Council funds.
25. To implement changes in the travel and subsistence allowances payable to Members of the Council as determined by the Secretary of State for the Environment from time to time, subject to consultation with the Executive and Leader of the Council.
26. To refuse relief in respect of any application for reduction in Non-Domestic Rate bills refused by the Council and subsequently submitted by an applicant in similar form within six months of the date of that decision unless, in his opinion, there is a significant change in circumstances in which case the application shall be submitted to the appropriate body for determination.
27. To carry out all the charging and collection functions arising from the Local Government Finance Act 1992 (and any amendment thereto) except for the writing-off of debts in excess of £2,000.
28. To determine and pay additional benefit in cases of "exceptional hardship" under Housing Benefit Regulations.

DELEGATION:

Director of Resources

5. A. DESIGNATION OF “PROPER OFFICERS”

The following are the Proper Officers of the Council under the enactments show
 Proper Officer is also authorised to act.

Section of the Local Government Act 1972	Proper Officer	A
83 (1) to (4) Witness and receipt of Declarations of Acceptance of Office	Director of Corporate Governance Head of Democratic Services	
84 Receipt of Declaration of Resignation of Office	Director of Corporate Governance Head of Democratic Services	
88 (2) Convening of meeting of Council to fill casual vacancy in the office of Chairman	Director of Corporate Governance Head of Democratic Services	
89 (1) (b) Receipt of notice of casual vacancy from two local government electors	Director of Corporate Governance Head of Democratic Services	
96 (1) Receipt of notice of pecuniary interest	Director of Corporate Governance Head of Democratic Services	
96 (2) Keeping record of disclosures of pecuniary interest under Section 94, and of notices under Section 96 (1)	Director of Corporate Governance Head of Democratic Services	
115 (b) Receipt of money due from officers	Director of Resources	
146 (1) (1) and (b) Declarations and service with regard to securities	Director of Resources	
151 Responsibility for the proper administration of the Council's financial affairs	Director of Resources	

Section of the Local Government Act 1972	Proper Officer	A
212 (1) Local Register for Land Charges	Director of Corporate Governance	†
225 (1) Proper Officer function - deposit of documents	Director of Corporate Governance	†
228 (3) Accounts of any Proper Officer to be open to inspection by any Member of the Authority	Director of Resources	
229 (5) Certification of Photographic copies of Documents	Director of Corporate Governance	†
234 Authentication of Documents	Head of Democratic Services	C S d C o
234 Officer authorised to sign forms of notice to give effect to planning applications	Director of Regulatory Services	
236 (9) To send copies of byelaws to Parish Council	Director of Corporate Governance	
238 Certification of byelaws	Director of Corporate Governance	
Schedule 12, Para 4 (2) (b) Signature of summonses to Council Meetings	Director of Corporate Governance	†

5. B. OTHER “PROPER OFFICER” DESIGNATIONS ARE AS FOLLOWS:

**(i) LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
AMENDING THE LOCAL GOVERNMENT ACT 1972**

Section of the Local Government (Access to Information) Act 1985 amending the Local Government Act 1972 and Proper Officer's Functions	Proper Officer	A
S.100B (2) Circulation of papers and reports	Director of Corporate Governance	F
S.100B (5) Withholding of reports containing exempt information	Director of Corporate Governance	F
S.100B (7) (c) Supply of papers to press	Director of Corporate Governance	F
S.100C (2) Summaries of Minutes	Director of Corporate Governance	F
S.100D Inspection of background papers	Director of Corporate Governance	F
S.100F Members' right to papers	Director of Corporate Governance	F

(ii) REPRESENTATION OF THE PEOPLE ACTS AND REGULATIONS MADE THEREUNDER

Representation of the People Acts and Regulations made thereunder and Proper Officer's Functions	Proper Officer	A
Registration Officer, Returning Officer and Proper Officer functions	Chief Executive	+

(iii) LOCAL GOVERNMENT FINANCE ACT

Section of the Local Government Finance Act 1988 and Proper Officer's Functions	Proper Officer	A
Section 114 Duty to report etc	Director of Resources	

(iv) LOCAL GOVERNMENT AND HOUSING ACT 1989

Section of the Local Government and Housing Act 1989 and Proper Officer's Functions	Proper Officer	A
Section 4 Head of Paid Service	Chief Executive	
Section 5 Monitoring Officer	Director of Corporate Governance	
Section 19 and regulations made thereunder. Notices of Members' Interest. Maintenance of Records.	Director of Corporate Governance	

Section of the Local Government and Housing Act 1989 and Proper Officer's Functions	Proper Officer	A
Section 2 Deposit of politically restricted posts	Director of Corporate Governance	F

(v) MISCELLANEOUS

Miscellaneous	Proper Officer	A
<p>Officers authorised to issue authorisations to carry out directed surveillance or to use covert human intelligence sources under Part II of the Regulation of Investigatory Powers Act 2000.</p> <p>Where knowledge of confidential information is likely to be acquired or when a vulnerable individual or a juvenile is to be used as a source.</p> <p>Regulation of Investigatory Powers (Communications Data) Order 2003: Designated Person Single Point of Contact.</p> <p>Qualified Person under the Freedom of Information Act 2000, section 36.</p>	<p>Director of Regulatory Services</p> <p>Director of Resources Director of Policy and Performance Head of Environmental Health Head of Housing & Community Planning Environmental Health Managers Director of Regulatory Services Head of Development Control Head of Benefits Head of Revenues Head of Internal Audit Head of Paid Service Community Safety Partnerships Manager</p> <p>Head of Paid Service Director of Corporate Governance</p> <p>Head of Paid Service Director of Corporate Governance</p>	

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Part 4

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1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and business

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

The annual meeting will:

- (i) elect a person to preside if the Chairman of Council is not present;
- (ii) elect the Chairman of Council;
- (iii) elect the Vice Chairman of Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Chairman and/or head of the paid service;
- (vi) consider and approve the Constitution;
- (vii) agree the number of Members to be appointed to the executive;
- (viii) appoint at least one scrutiny committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution);
- (ix) agree the scheme of delegation;
- (x) approve a programme of ordinary meetings of the Council for the year; and
- (xi) consider any business set out in the notice convening the meeting.

1.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the council meeting will:

- (i) decide which committees to establish for the municipal year;
- (ii) decide the size and terms of reference for those committees;
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules;
- (iv) receive nominations of Councillors to serve on each committee and outside body; and
- (v) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the executive.

2. ORDINARY MEETINGS

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

- (i) elect a person to preside if the Chairman and Vice Chairman are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from Members;
- (iv) receive any announcements from the Chairman, Leader, Members of the executive or the head of paid service;
- (v) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- (vi) deal with any business from the last Council meeting;

- (vii) receive reports from the executive and the Council's committees and receive questions and answers on any of those reports;
- (viii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (ix) consider motions; and
- (x) consider any other business specified in the summons to the meeting, including consideration of proposals from the executive in relation to the Council's budget and policy framework and reports of the scrutiny committees for debate.

3. EXTRAORDINARY MEETINGS

3.1 Calling extraordinary meetings.

Those listed below may request the Executive Director (Returning Officer) to call Council meetings in addition to ordinary meetings:

- i) the Council by resolution;
- ii) the Chairman of the Council;
- iii) the monitoring officer;
- iv) Section 151 Officer; and
- v) any five members of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

4. Appointment of substitute members of committees and sub-committees

4.1 Allocation

As well as allocating seats on committees and sub-committees, the Council will allocate seats in the same manner for substitute Members. For Committees or Sub-Committees exercising the functions of Development Control, licensing or appeals, only Councillors who have received satisfactory training to enable proper and lawful discharge of the functions may be appointed as substitutes.

4.2 Number

For each Committee or Sub-Committee, the Council will appoint the same number of substitutes in respect of each political group as that group holds ordinary seats on that Committee or Sub-Committee, up to a maximum of 4.

4.3 Powers and duties

Substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

4.4 Substitution

Substitute Members may attend meetings in that capacity only:

- (i) to take the place of the ordinary member for whom they are the designated substitute;
- (ii) where the ordinary member will be absent for the whole of the meeting; and
- (iii) after notifying the Chief Executive at least 24 hours before the meeting of the intended substitution.

5. TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the Executive Director (Returning Officer) and notified in the summons.

6. NOTICE OF AND SUMMONS TO MEETINGS

The Executive Director (Returning Officer) will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Executive Director (Returning Officer) will send a summons signed by him/her by post or electronic mail to every Member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

7. CHAIRMAN OF MEETING

The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to committee and sub-committee meetings, references to the Chairman also include the Chairman of committees and sub-committees.

8. QUORUM

The quorum of a meeting will be one quarter of the whole number of Members. During any meeting if the Chairman counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

9. DURATION OF MEETING

Unless the majority of Members present vote for the meeting to continue, any meeting that has lasted until 10.30 p.m. will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

10. QUESTIONS BY THE PUBLIC AND PETITIONS

10.1 General

Members of the public may ask questions of members of the executive at ordinary meetings of the Council.

10.2 Order of questions

Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.

10.3 Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Executive Director (Returning Officer) no later than noon on the Monday preceding the day on which the meeting of the Council is to be held. Each question must give the name and address of the questioner and must name the Member of the Council to whom it is to be put.

10.4 Number of questions

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

10.5 Scope of questions

The Executive Director (Returning Officer) may reject a question if it:

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

10.6 Record of questions

The Executive Director (Returning Officer) will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection.

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

10.7 Asking the question at the meeting

The Chairman will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, or if they so elect, they may ask the Chairman to put the question on their behalf. The Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

10.8 Supplemental question

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 9.5 above.

10.9 Written answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

10.10 Reference of question to the executive or a committee

Unless the Chairman decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the executive or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

10.11 Petitions

A document submitted by a Member or members of the public shall be identified as a petition where it is indicated to be so by the person or persons submitting it and it is signed by at least 50 people accompanied by their addresses, provided that the Chairman of the Council shall have discretion to accept a petition containing less than 50 signatures. Lead petitioners shall be invited to address an ordinary meeting of the Council for up to three minutes after which a response shall be given by the relevant Executive Member outlining how the Council intends to deal with the petition. Petitions relating to planning applications shall be dealt with by the Development Control Committee and highway matters shall be referred to the next Highways Joint Member Panel.

11. QUESTIONS BY MEMBERS

11.1 On reports of the executive or committees

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

11.2 Questions on notice at full Council

Subject to Rule 10.4, a Member of the Council may ask:

- the Chairman;
- a Member of the executive;
- the Leader; or
- the chairman of any committee or sub-committee a question on any matter in relation to which the Council has powers or duties or which affects the District.

11.3 Questions on notice at committees and sub-committees

Subject to Rule 10.4, a Member of a committee or sub-committee may ask the chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the district and which falls within the terms of reference of that committee or sub-committee.

11.4 Notice of questions

A Member may only ask a question under Rule 10.2 or 10.3 if either:

- (a) they have given notice in writing of the question to the Executive Director (Returning Officer), which has been received not later than noon on the Monday preceding the day on which the meeting is to be held; or
- (b) the question relates to urgent matters, they have the consent of the chairman to whom the question is to be put and the content of the question is given to the Executive Director (Returning Officer) by noon on the day of the meeting.

11.5 Response

An answer may take the form of:

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

11.6 **Supplementary question**

A Member asking a question under Rule 10.2 or 10.3 may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

- 11.7 Portfolio Holders shall submit regular portfolio reports to full Council giving information for Members on Developments in each portfolio area since the last report. Members may ask Portfolio Holder questions without notice on any item in the portfolio report. A maximum of 10 minutes will be permitted for questions by Members.

12. **MOTIONS ON NOTICE**

12.1 **Notice**

Except for motions which can be moved without notice under Rule 12, written notice of every motion, signed by at least 2 Members, must be delivered to the Executive Director (Returning Officer) in normal office hours not later than 10.00 a.m. on the Tuesday of the week preceding the next meeting of the Council. These will be entered in a book open to public inspection.

12.2 **Motion set out in agenda**

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

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

12.3 **Scope**

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

13. **MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) that the meeting continue beyond 10.30 p.m. in duration ;

- (n) to suspend a particular council procedure rule;
- (o) to exclude the public and press in accordance with the Access to Information Rules;
- (p) to not hear further a member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4; and
- (q) to give the consent of the Council where its consent is required by this Constitution.

14. RULES OF DEBATE

14.1 No speeches until motion seconded

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

14.2 Right to require motion in writing

Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him/her before it is discussed.

14.3 Seconders' speech

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

14.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chairman.

14.5 When a Member may speak again

A Member who has spoken on a motion may not speak again without the consent of the Chairman whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Member;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

14.6 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words.as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes

the substantive motion to which any further amendments are moved.

- (e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

14.7 Alteration of motion

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

14.8 Withdrawal of motion

A Member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

14.9 Right of reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

14.10 Motions which may be moved during debate

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to withdraw a motion;
 - (b) to amend a motion;
 - (c) to proceed to the next business;
 - (d) that the question be now put;
 - (e) to adjourn a debate;
 - (f) to adjourn a meeting;
 - (g) that the meeting continue beyond 10.30 p.m. in duration;
 - (h) to exclude the public and press in accordance with the Access to Information Rules;
- and
- (i) to not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4.

14.11 Closure motions

- (a) A Member may move, without comment, the following motions at the end of a speech of another Member:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently

discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

- (c) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

14.12 Point of order

A Member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final.

14.13 Personal explanation

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

15. PREVIOUS DECISIONS AND MOTIONS

15.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be

moved unless the notice of motion is signed by at least 25 Members.

15.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 25 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

16. VOTING

16.1 Majority

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

16.2 Chairman's casting vote

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

16.3 Show of hands

Unless a ballot or recorded vote is demanded under Rules 15.4 and 15.5, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

16.4 Ballots

The vote will take place by ballot if 5 members present at the meeting demand it. The Chairman will announce the numerical result of the ballot immediately the result is known.

16.5 Recorded vote

If 5 Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

16.6 Right to require individual vote to be recorded

Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

16.7 Voting on appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

17. MINUTES

17.1 Signing the minutes

The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

17.2 No requirement to sign minutes of previous meeting at extraordinary meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that

paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

17.3 Form of minutes

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

18. RECORD OF ATTENDANCE

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

19. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 20 (Disturbance by Public).

20. MEMBERS' CONDUCT

20.1 Speaking

When a Member speaks at full Council they must stand and address the meeting through the Chairman. If more than one Member stands, the Chairman will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation. Members of the Executive need not stand when speaking.

20.2 Chairman standing

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

20.3 Member not to be heard further

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

20.4 Member to leave the meeting

If the Member continues to behave improperly after such a motion is carried, the Chairman may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

20.5 General disturbance

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

21. DISTURBANCE BY PUBLIC

21.1 Removal of member of the public

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

21.2 Clearance of part of meeting room

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

22. **SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

22.1 **Suspension**

All of these Council Rules of Procedure except Rule 16.6 and 17.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

22.2 **Amendment**

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

23. **APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

All of the Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the executive. Only Rules 4 – 9, [11](#) (part), [13](#), [16](#) – [21](#) (but not Rule [20.1](#)) apply to meetings of committees and sub-committees. [Committees and Sub-Committees may elect a Vice Chairman.](#)