



CONSTITUTION

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PART 1

Summary and Explanation

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Summary and Explanation

1.0 The council's Constitution

- 1.1 East Herts Council has agreed a constitution which sets out how the council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the council to choose.
- 1.2 Part 2 of the Constitution is divided into 14 Chapters which set out the basic rules governing the council's business. More detailed procedures and codes of practice are provided in separate rules and protocols in other parts of the constitution.

2.0 What's in the Constitution?

- 2.1 Part 2, Chapter 1 of the Constitution commits the council to the belief that local government should never be onerous or burdensome and should always act to empower individuals and their communities. All processes operated by the council will permit access by individuals affected whenever possible and be designed to be equitable and fair. Chapters 2 – 14 explain the rights of citizens and how the key parts of the council operate. These are:

(a) Members of the Council (Chapter 2)

(b) Citizens and the Council (Chapter 3)

(c) The Council meeting (Chapter 4)

(d) Chairing the Council (Chapter 5)

(e) The Executive (Chapter 6)

(f) Scrutiny of decisions (Chapter 7)

- (g) Regulatory and other committees (Chapter 8)
- (h) Joint arrangements and working groups (Chapter 9)
- (i) Officers (Chapter 10)
- (g) Decision making (Chapter 11)
- (k) Finance, contracts and legal matters (Chapter 12)
- (l) Review and revision of the Constitution (Chapter 13)
- (m) Suspension, interpretation and publication of the Constitution (Chapter 14)

3.0 How the Council operates

- 3.1 The Council is composed of 50 Members elected every four years. Members are democratically accountable to residents of their ward. The overriding duty of Members is to the whole community of East Herts, but they have a special duty to their constituents, including those who did not vote for them.
- 3.2 Members have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Performance, Audit and Governance Scrutiny Committee, through the Monitoring Officer, trains and advises them on the code of conduct.
- 3.3 All Members meet together as the Council. Meetings of the Council are open to the public unless exempt or confidential matters are under discussion. At these meetings, Members decide the Council's overall policies and set the budget each year. The Council will appoint the Leader, agree the terms of reference of committees and make appointments to them. It will also approve the policy framework, holding to account the Executive and committees. There are public question times when any person may put forward questions.

4.0 How Decisions Are Made

- 4.1 ~~4.1~~ The Executive is the part of the council which is responsible for most day-to-day decisions. The Executive is

made up of the Leader, who is appointed by the Council, and between two and nine further Members, appointed by the Leader. When major decisions are to be discussed or made, these are published in advance in so far as they can be anticipated. If these major decisions are to be discussed with council officers at a meeting of the Executive, this will generally be open for the public to attend, except where exempt or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

5.0 Scrutiny

5.1 There are two scrutiny committees which support the work of the Executive and the council as a whole. They allow all Members to have a greater say in council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. Scrutiny committees also monitor the decisions of the Executive. It can 'call-in' a decision which has been made by the Executive but not yet implemented. This enables it to consider whether the decision is appropriate.

5.2 ~~The A scrutiny~~ committee may recommend that the Executive reconsiders the decision. ~~The y committee~~ may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

6.0 The Council's Staff (Officers)

~~6.1~~ 6.1 —The Council has staff (referred to as 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationships between officers and Members of the Council which is set out in Part 5 of this constitution.

7.0 Citizens' Rights

7.1 Citizens have a number of rights in their dealings with the council. These are set out in more detail in Chapter 3. Some of these are legal rights, whilst others depend on the council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.

7.2 Citizens have the right to:

- (a) _____ Vote at local elections if they are registered¹⁷;
- (b) _____ Contact their local Member about any matters of concern to them¹⁷;
- (c) _____ Obtain a paper copy of the constitution on payment of a reasonable fee (the constitution is also available online);
- (d) _____ Attend meetings of the Council and its committees except where, for example, exempt or confidential matters are being discussed;
- (e) _____ Petition to request a referendum on a mayoral form of executive;
- (f) _____ Participate in the Council's question time and contribute to investigations by the scrutiny committees;
- (g) _____ Find out, from the council's Forward Plan, what major decisions are to be discussed by the Executive or decided by the Executive or officers, and when;
- (h) _____ Attend meetings of the Executive where key decisions are being discussed or decided;
- (i) _____ See reports and background papers, and any record of decisions made by the Council and Executive;
- (h) _____ Complain to the council about its functions and services;
- (i) _____ Complain to the Ombudsman if they think the council has not followed its procedures properly. However, they should only do this after using the council's own complaints process;

(j) ~~C~~ Complain to the Monitoring Officer if they have evidence which they think shows that a Member has not followed the council's Code of Conduct; and

(k) ~~I~~ Inspect the council's accounts and make their views known to the external auditor.

7.3 The council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact Democratic Services at Wallfields, Pegs Lane, Hertford, Hertfordshire, SG13 8EQ
email: democratic.services@eastherts.gov.uk
tel: 01279 655261

8.0 Admission to meetings

8.1 All meetings of the Council, its Executive, scrutiny committees, committees, sub-committees and panels are open to the public.

8.2 There may be occasions when ~~“confidential”~~ information is to be discussed at a meeting. On such occasions, the Council must exclude the public. Similarly, when information of a certain specified nature (exempt information) is to be considered, the Council has the discretion to resolve to exclude the public from a meeting.

8.3 The public has a right of access to agendas and reports for meetings. These papers must be available for public inspection ~~“five clear days”~~ in advance of a meeting and also at a meeting. There is no right of access to reports containing confidential and/or exempt information.

8.4 When meetings are convened at short notice and the “five day rule” cannot apply, papers must be available from the time the meeting is convened.

8.5 Following a meeting, members of the public have a right of access to the agenda and reports considered at a meeting, with the exception of confidential and/or exempt items, and also the Minutes.

8.6 Decisions of the Executive and key decisions taken by officers must be recorded. The record must also detail the reasons for a

decision, any alternative options considered before reaching a decision and any declarations of interest. Records of decisions and any background papers must be made public.

Glossary

The Constitution contains references which may be defined as follows:

Approved Duties	Those meetings, events, etc, approved for the purposes of claiming travel and subsistence allowances.
Background papers	A list at the end of a report of those documents used in compiling the report, which must be available for inspection on request by a Member or the public.
Budget	The revenue and capital budget in any one year.
Call-in	The process by which Scrutiny Members may challenge or require further information on an Executive decision.
Chairman of Committee	The elected Chairman or in his or her absence, the Vice-Chairman. The term may also apply to an elected Member elected to preside in the absence of the Chairman and Vice-Chairman.
Chairman of Council	The Member elected by Council annually to preside over meetings of the Council and to act as the ceremonial head of the Council.
Chief Officer	As detailed at Part 2, Chapter 10 of the Constitution, the Chief Executive and Directors.
Civic Year	The period between annual meetings of the Council, usually held in May.
Clear Days	This excludes Sunday, Bank and Public Holidays, the day of despatch of an agenda, summons or notice (where relevant), the

day of the meeting (where relevant).

Code of Conduct	The Code adopted by the Council which describes the conduct required of elected or co-opted Members of the Council
Committee	A formal decision-making body which has functions delegated to it by either Council or the Executive.
Confidential Information	As defined in Section 100A(3) of the Local Government Act 1972, this covers information provided to the council by a Government department on terms, which prohibit its disclosure and information, which the council is prohibited from disclosing by statute or by court order.
Constitution	The document describing the decision-making arrangements for the council, together with the detailed rules and procedures for the operation of the decision-making arrangements.
Co-opted Member	A non-elected person appointed to a committee, sub-committee or panel on a non-voting basis.
Council	The principal decision-maker.
Declaration of Interests	The requirement for Members to give notice of their interests in matters related to an item under consideration (see also Disclosable Pecuniary Interests and Non-Pecuniary Interests).
Delegated Powers	The description of the level of authority delegated to a committee, sub-committee, panel, Executive Member or Officer.
Deputy Leader of the Council	The elected Member appointed by the Leader as Deputy Leader for a four year term.

Disclosable Pecuniary Interests	The requirement for Members to register and declare any financial or beneficial interests as defined in Part 5A – Members’ Code of Conduct, Appendix A
Executive	The decision-making body of the Council with responsibility for Executive functions.
Executive Members	Those elected Members appointed to the Executive by the Leader.
Exempt Information	As defined by Section 100(1) of the Local Government Act 1972, this includes a number of different categories of information, under which the council is entitled to withhold certain reports from the public (see Part 4B – Access to Information Procedure Rules)
Extraordinary Meeting	A meeting of the Council convened for specific purposes.
Five Day Rule	Under the Local Government Act 1972 (as amended by the Access to Information 1985) Act, the council is required to give notice and make available, the agenda and associated papers for five clear days.
Forward Plan	The published document which provides the statutory notice of the intention by the Executive, an Executive Member or an Officer to make a key decision. The document also sets out other scheduled major decisions.
Group Leader	The Member identified by a political group as its leader by notice in writing.
Head of Paid Service	The Officer designated as such under Section 4 of the Local Government and Housing Act 1989 (see Part 2, Chapter 10).

Hearing Panel	The quasi-judicial body responsible for determining licensing matters referred to it (see Part 3B – Functions and Responsibilities).
Key Decision	As defined by the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the most significant decisions to be taken by the Executive. A more specific definition can be found in Part 2, Chapter 11.
Leader of the Council	The elected Member elected by Council as leader for a four year term.
Licensing Authority	The Council exercising its duties and responsibilities under the Licensing Act 2003.
Local Choice Functions	As detailed in Part 3A of the constitution, the description of responsibility for local choice functions under Section 13(3)(b) of the Local Government Act 2000 to the Council, the Executive, regulatory committees and Officers.
Member	An elected councillor (referred to as Member) of the Council.
Members' Allowances Scheme	The scheme approved by Council on recommendation from the independent remuneration panel for the payment of allowances to Members.
Monitoring Officer	The Officer designated as such under Section 5 of the Local Government and Housing Act 1989 or his/her deputy (see Part 2, Chapter 10).
Non-Key Decisions	Executive decisions taken by the Executive, Executive Committees, Executive Members

	and Officers on less significant matters in accordance with the specified procedure (see Part 2, Chapter 11).
Non-Pecuniary Interests	The requirement for Members to register and declare any non-financial interests as defined in Part 5A – Members’ Code of Conduct, Appendix A
Officers	The employees of the council.
Ordinary Meeting	A meeting of the Council included in the approved calendar of meetings.
Outside Bodies	External organisations which have invited the council to nominate representative(s) to serve on its management body.
Panel	A formal group of Members with functions delegated by a Committee or a Sub-Committee.
Party Whip	The Member within a political group appointed by that group to manage internal party discipline and activities.
Policy Framework	The plans and strategies which together make up the overarching policy direction determined by Council (see Part 2, Chapter 4).
Political Group	As defined in the Local Government (Committees and Political Groups) Regulations 1990, any group of at least two Members who have notified the council in writing that they wish to be treated as a political group.
Portfolio Holder	Otherwise known as Executive Members, those elected Members appointed to the Executive with defined areas of responsibility called portfolios.

Proper Officer	The authorised Officer under statutory enactments (see Part 3D – designation of Proper Officers).
Quasi-Judicial	A process of decision-making which is similar to a court of law, in that each party with an interest in the matter under consideration has an opportunity to make their case, following which a decision on the facts and representation is made.
Quorum	The minimum number of Members required to be present for a meeting to be properly convened.
Regulatory Committees	Those Committees of the Council falling outside of the executive arrangements that are charged with regulatory functions, such as development management, licensing, etc.
Scrutiny	A process of holding the Executive to account.
Section 151 Officer	The Officer designated as such under Section 151 of the Local Government Act 1972 (see Part 2, Chapter 10).
Statutory Undertakers	The various companies and agencies with legal rights to carry out certain development and highways works, such as utilities and telecoms.
Sub-Committee	A formal decision-making body with functions referred or delegated to it by a Committee.
Task and Finish Group	An informal group of Members established by a Scrutiny Committee to examine a specific issue.
Terms of Reference	The description of what a committee, sub-committee or panel may concern itself with.

Urgent Matter	A matter which is to be considered at a meeting of the Council, a Committee or a Sub-Committee by virtue of section 100B (4) (b) of the Local Government Act 1972. This provides for matters not appearing on the agenda to be considered at the meeting, if by reason of special circumstances, the Chairman is of the opinion that the item should be considered as a matter of urgency.
Ward	A geographical area of the District represented by 1 – 3 elected Members.
Written Notice	Unless otherwise stated, a notice given in writing or electronically.

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PART 2

Articles of the Constitution

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Chapter 1 – The Constitution

1.1 Powers of the council

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

1.2 The Constitution

This document, and all its appendices, is the Constitution of the East Hertfordshire District Council.

1.3 Purpose of the Constitution

- 1.3.1 The council is committed to serving the aspirations and the needs of the whole community of East Hertfordshire with efficient and cost effective services. It will promote economic, environmental and social wellbeing whilst protecting the District's heritage of market towns, villages and countryside.
- 1.3.2 The council believes that local government should never be onerous or burdensome and should always act to empower individuals and their communities. All processes operated by the Council will permit access by individuals affected whenever possible and be designed to be equitable and fair.
- 1.3.3 The purpose of the Constitution is to:
 - (a) enable the council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
 - (b) support the active involvement of citizens in the process of local authority decision-making;

- (c) help Members represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create a powerful and effective means of holding decision-makers to public account;
- (f) ensure that no one will review or scrutinise a decision which they were directly involved in taking;
- (g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (i) provide a means of improving the delivery of services to the community.

1.4 Interpretation and Review of the Constitution

- 1.4.1 Where the Constitution permits the council to choose between different courses of action, the council will always choose that option which it thinks is closest to the purposes stated above.
- 1.4.2 Consequential amendments will be made to the electronic version of the Constitution as soon as reasonably practicable and published on the council's website to provide transparency.
- 1.4.3 The council will monitor and evaluate the operation of the Constitution as set out in Chapter 14.

Chapter 2 – Members of the Council

Developing Roles for Members

2.1 Composition and eligibility

~~2.1.1~~ 2.1.1 (a) — **Composition.** The Council will consist of 50 elected Members. One or more Members will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Committee Electoral Commission for England and approved through Parliament by the Secretary of State.

~~2.1.2(b)~~ 2.1.2 **Eligibility.** To be eligible to stand as a councillor a person must be registered to vote in the district, or live or work there. More specifically, they must~~To be qualified to be elected as a Member of the Council a person must be 18 years of age or over at the date of his or her nomination, and a Commonwealth citizen, a citizen of the Republic of Ireland or a citizen of another state of the European Community, and~~ either:

- (~~a~~ia) be a local government elector for the area of the council; or
- (~~ib~~ib) have during the whole of the twelve months preceding the day on which he or she is nominated as a candidate occupied as owner or tenant any land or other premises in the area of the council; or
- (~~ic~~ic) have as his or her principal or only place of work in the twelve months preceding the day on which he or she is nominated as a candidate premises in the area of the council; or
- (~~iv~~iv) ~~has~~resided in the area of the council during the whole of the twelve months preceding the day on which he or she is nominated as a candidate.

~~(e)~~ 2.1.3 A person is disqualified for election if they:

- (~~ia~~) hold a paid office under the council or a politically restricted post as defined under the provisions of the Local Government Housing Act 1989; or
- (~~ib~~) are bankrupt; or
- (~~ic~~) have been sentenced to a term of imprisonment (whether suspended or not) of not less than three months, without the option of a fine, during the five years preceding the election; or
- (~~id~~) are disqualified under any enactment relating to corrupt or illegal practices.

2.2 Election and terms of Members

The regular election of Members under this Constitution will be held on the first Thursday in May every four years beginning in 201~~9~~5. The terms of office of Members will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.3 Roles and functions of all Members

2.3.1 (~~a~~) All Members will:

- (~~ia~~~~a~~) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (~~b~~~~ib~~) represent their communities and bring their views into the council's decision-making process, that is, become the advocate of and for their communities;
- (~~e~~~~iiic~~) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;

(~~divd~~) balance different interests identified within the ward and represent the ward as a whole;

(~~eve~~) be involved in decision-making;

(~~fvif~~) participate in the governance of the council;

(~~viig~~) be available to represent the council on other bodies; and

(~~viiih~~) maintain the highest standards of conduct and ethics.

~~2.3.2(b)~~—Rights and duties

(~~ia~~)2.3.2 Members will have rights of access to such documents, information, land and buildings of the council as are necessary for the proper discharge of their functions and in accordance with the law.

2.3.3(~~bii~~) Members will not make public information which is confidential or exempt without the consent of the council or divulge information given in confidence to anyone other than a Member or officer entitled to know it.

(~~iiic~~)2.3.4 __For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.4 Conduct

Members will at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

2.5 Allowances

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

Chapter 3 – Citizens and the council

3.1 Citizens' rights

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

3.1.2 **Voting:** Citizens on the electoral roll for the area have the right to vote.

3.1.3 **Petitions:** Citizens on the electoral roll for the area have the right to sign a petition to request a referendum for an elected mayor form of Constitution.

3.1.4 **Information:** Citizens have the right to:

- (a) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (b) attend meetings of the Executive when key decisions are being considered;
- (c) find out from the council's publications what key decisions will be taken by the executive and when;
- (d) see reports and background papers, and any records of decisions made by the Council and the Executive; and
- (e) inspect the council's accounts and make their views known to the external auditor.

3.1.5 **Participation:** Citizens have the right to participate in the Council's question time and contribute to investigations by scrutiny committees.

3.1.6 Complaints: Citizens have the right to complain to:

- (a) the council under its Complaints Policy;
- (b) the Ombudsman after exhausting the council's own Complaints Policy;
- (c) the Monitoring Officer about a breach of the Members' Code of Conduct;
- (d) the council's external auditor in relation to the accounts of the council.

3.2 Citizens' responsibilities

Citizens must not be violent, abusing or threatening to Members or officers and must not wilfully harm things owned by the council, Members or officers. When attending meetings, citizens will be expected to comply with the decisions of the chairman of that meeting.

~~Article~~**Chapter 4 – The Full Council**

4.1 Meaning

The Council means every Member councillor of East Hertfordshire District Council meeting together formally. By law, there are some things that only the Council has the power to do. Other matters are allocated to the Council by this Constitution.

~~4.2.1~~ **Policy Framework and budget**

~~4.2.1~~ (a) — **Policy Framework:** The Policy Framework ~~means~~ includes the following plans, policies and strategies:

~~(ia)~~ Anti-Fraud and Anti-Corruption Policy;

~~(iib)~~ Community Grants policies;

~~(iiic)~~ Complaints Policy;

~~(ivd)~~ Contaminated Land Strategy;

~~(e)v)~~ Corporate Equality Policy;

~~(vif)~~ Corporate Strategic Plan;

~~(viig)~~ Crime and Disorder Reduction Strategy, including Community Safety Strategy;

~~(viiih)~~ Community Transport Strategy;

~~(ixi)~~ -Fees and Charges Strategy;

~~(xj)~~ Gambling Statement of Principles;

~~(xik)~~ Health and Safety at -Work Policy;

~~(xiil)~~ Health and Wellbeing Strategy;

~~(xiiim)~~ Housing Strategy, including Allocations Scheme, Tenancy Strategy, Homelessness Strategy, and Private Sector Housing Assistance Policy;

~~(xivn)~~ Housing Strategy, including Investment Programme, Allocations policy, Choice-based lettings scheme, Tenancy Strategy, Homelessness, Private Sector Housing Assistance, ICT Strategy;

~~Pay Policy Statement;~~

~~(xvo)~~ Licensing Statement of Policy;

~~(xvip)~~ Parking policies;

~~(xviiq)~~ Parks and Open Spaces Strategy;

~~(xviiiir)~~ Parking policies; Pay Policy Statement;

~~(xixs)~~ Plans and strategies which together comprise the District Plan (and Harlow and Gilston Garden Town project), Supplementary Planning Documents, final Masterplans and associated development guidance;

~~(xxt)~~ Safeguarding Policy;

~~(xxiu)~~ Social Media Policy;

~~(xxiiiv)~~ Taxi Policies, including the Driver Suitability Policy;

~~Public Engagement Strategy;~~

~~Public Health Strategy;~~

~~Transportation strategies, including Local Transport Plan;~~

~~(xxiiiv)~~ Treasury Management Strategy; and

~~(xxivx)~~ Waste Management Strategy Whistleblowing Policy.

~~4.2.2~~ ~~(b)~~ The budget:

The Council will be responsible for the adoption of its annual budget. Once the annual budget is in place it will be the responsibility of the Executive to implement it.

~~4.2.3~~ ~~(c)~~ The budget consists of the:

- (ia) revenue budget;
- (iib) capital programme;
- (iiic) medium term financial strategy (covering revenue and capital);
- (ivd) prudential indicators including borrowing limits; and
- (ve) treasury management and investment strategy

~~4.2.4(d)~~ 4.2.3 The annual budget includes:

- (ia) the allocation of financial resources to different services and projects and proposed contingency funds;
- (iib) the Council Tax base and setting the Council Tax;
- (iiic) decisions relating to the control of the council's borrowing requirements, investments and capital expenditure; and
- (ivd) the setting of virement limits.

~~4.2.4.2.45(e)~~ Any additional budget requirements during the course of the year will be approved according to thresholds set out in the Financial Procedure Rules Appendix 1.

Budget. ~~The budget includes the Medium Term Financial Plan and the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, non-domestic rate base, approval of Council's net expenditure, setting the council tax and decisions relating to the control of the Council's borrowing requirement and investment strategy, the control of its capital expenditure and the setting of virement limits.~~

4.3 Functions of the Council

~~(a)~~ Only the Council ~~will~~ may exercise the following functions:

- ~~(ia)~~ ~~(a)~~ annually adopting and changing the constitution;
- ~~(iib)~~ adopting the Constitution (consequential amendments will be made in year); approving and adopting the Policy Framework;
- ~~(iiic)~~ approving and adopting the council's annual budget;
- ~~(ivd)~~ approving for the purposes of public consultation draft proposals associated with the preparation of, alterations to, or the replacement of the District Plan;
- ~~(ve)~~ subject to the urgency procedure set out in the Budget and Policy Framework Procedure Rules in Part 4 of the Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the Policy Framework or budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to or not wholly in accordance with the budget;
- ~~(vif)~~ electing the Leader;
- ~~(viig)~~ removing the Leader by resolution and electing a replacement in accordance with ~~Article~~ Chapter 6 ~~sets~~;
- ~~(viiih)~~ determining the political balance of the Council and the allocation of seats in accordance with it or (by unanimous vote) in some other way as the Council sees fit;
- ~~(i)~~ deciding which committees of the Council to establish for the civic year and the size and terms of reference for those committees;
- ~~(j)~~ with regard to committees of the Council, deciding the allocation of seats and substitutes to political groups in accordance with the political balance rules;
- ~~(k)~~ receiving, or arranging the delegation of, nominations of Members to serve on each committee of the Council and any outside body for which a new appointment or re-appointment is required;

- ~~approving proposed terms of reference from committees of the Council and any changes to them;~~
- ~~(ix) determining the political balance of the Council and the allocation of seats in accordance with it or (by unanimous vote) in some other way as the Council sees fit;~~
- ~~(xil) adopting a Members' Allowance Scheme;~~
- ~~(xiim) appointing Members to outside bodies unless this is a function of the Executive or has been delegated by the Council;~~
- ~~(xiin) approving the appointment or dismissal of the Head of Paid Service;~~
- ~~(xivo) any electoral matters requiring a decision by the Council;~~
- ~~(xvp) conferring the title of Honorary Alderman or the Honorary Freedom of the District;~~
- ~~(xviq) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills; AIA~~
- ~~(xviir) all local choice functions set out in Part 3 of this Constitution which the Council decides should be taken by itself rather than the Executive;~~
- ~~(xviis) appointing the Chairman of the Council;~~
- ~~(xixt) changing the name of the district; and~~
- ~~(xxu) all other matters which, by law, must be reserved to the Council.~~
- ~~(j) confirming the appointment of the Head of Paid Service;~~
- ~~(k) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;~~

- ~~(l) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the executive;~~
- ~~(m) all other matters which, by law, must be reserved to Council; and~~
- ~~(n) to represent the views of the local community on matters of significance.~~

4.4 Council meetings

4.4.1 ~~4.43.1(a)~~ There are three types of Council meeting:

- ~~(ia) (a) thet the~~ annual meeting;
- ~~(iib) (b) ordinaryordinary~~ meetings; and
- ~~(iiic) e(c) extraordin xtraordinary~~ meetings.

4.4.2 ~~4.43.2(b)~~ Each type of Council meeting will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

4.54 Responsibility for functions

The council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the ~~Ex~~ecutive.

Chapter 5 – Chairing the Council

5.1 Role and function of the Chairman

- 5.1.1 The Chairman and Vice-Chairman will be elected annually by the Council.
- 5.1.2 Neither the Chairman nor the Vice-Chairman may be a member of the Executive.
- 5.1.3 The Chairman and in his or her absence the Vice-Chairman have the following roles.

5.2 Ceremonial role

- 5.2.1 The Chairman will:
 - (a) chair meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community;
 - (b) uphold and promote the purposes of the Constitution and interpret the rules of procedure at Council meetings;
 - (c) ensure that Council meetings are a forum for the debate of matters of concern to the community and one of the places at which Members who are not on the Executive are able to hold the Executive to account; and
 - (d) exercise a casting vote in the event of a tie at a Council meeting with complete freedom of conscience.
- 5.2.2 The Chairman is the ceremonial head of the council and will be its representative at civic and ceremonial events. He or she must maintain an apolitical stance, especially when chairing full Council meetings.

5.2.3 This ceremonial the role includes:

- (a) representing and promoting the whole district during his or her term of office;
- (b) enhancing the image of the district;
- (c) encouraging understanding of the council's role, priorities and partnerships; and
- (d) promoting public involvement in the council's activities.

ArticleChapter 76 – The Executive

THE ROLE OF THE EXECUTIVE

67.1 Role

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

67.2 Form and composition

6.2.1 The Executive will be chaired by the Leader. It will consist of the Leader and no fewer than two and up to nine other Members appointed by the Leader, one of whom shall be designated Deputy Leader and all of whom will be known as Executive Members.

6.2.2 ~~(b)~~ Only Members will be appointed to the Executive. There will be no co-optees, no deputies and no substitutes for Executive Members. The Leader and Executive Members may not be members of any scrutiny committee. The Chairman and Vice-Chairman of the Council may not be members of the Executive with a minimum of three and maximum of eight members in total.

67.3 The Leader

~~6.3.16.3.1~~ (a) — The Leader -will be is a CMember elected to the position of Leader by the Council at its the first annual meeting following the local government ordinary elections. The Leader will hold office until: of Councillors and holds office for the period of four years, unless within that period:

(a) the next post-election annual meeting of the Council; or

~~(b)~~ he or she resigns from the office of Leader; or

~~(iii)~~~~cc~~~~b~~) he or she is removed from office by ordinary resolution on notice of the Council~~is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or~~

~~(iv)~~~~dd~~~~e~~) he/she is no longer a Member of the Council.;

~~(d)~~ — ~~in the event of the position of the Leader of the Council becoming vacant for any the reasons in 7.3 (a) to (c), the Council shall appoint another member of the Council to complete the remainder of the four year term of office.~~

~~6.3.2(b)~~6.3.2 When a vacancy arises in the office of the Leader, the Council shall fill the vacancy at the next ordinary meeting of the Council, at an extraordinary meeting summoned for the purpose or, if the vacancy occurs as a result of the removal of the Leader by resolution of the Council, at the meeting at which that resolution was passed or a subsequent meeting. The Member appointed to fill the vacancy shall hold office for the remainder of the original term, subject to the rules on earlier termination in 6.3.1 above.

~~6.3.3(c)~~6.3.3 The Leader must appoint another member of the Executive as Deputy Leader to act when the Leader is unable to act or the office of Leader is vacant. The Leader may, if he or she thinks fit, remove the Deputy Leader from office.

~~6.3.4(d)~~6.3.4 The Deputy Leader shall hold office until the end of the Leader's term of office unless he or she is removed by the Leader, resigns as Deputy Leader or ceases to be a Member of the Council.;

~~6.3.4~~ — ~~The Leader remains a member of the Council during his or her term of office as Leader and any enactment that provides for him or her to retire earlier as a councillor does not apply.~~

6.4 Other Executive Members

~~6.4.1(a)~~6.4.1 The Leader will usually announce the Executive Members at the annual meeting of the Council. Appointments, re-appointments and the removal of Executive Members announced in this way will take immediate effect. If the announcement is not made at the

annual meeting, the Leader will give written notice to the Monitoring Officer of the Executive Members as soon as practicable after the annual meeting and the re-appointments, appointments and removals made in this way will take effect two working days after receipt of the notice by the Monitoring Officer.

~~6.4.2(b)~~6.4.2 The Leader may also appoint Executive Members during the civic year to fill any vacancy or increase the size of the Executive (up to the maximum number set out in 6.2.1 above) by giving written notice to the Monitoring Officer. These appointments shall take effect two working days after receipt of the notice by the Monitoring Officer.

~~6.4.3(c)~~6.4.3 The Leader must appoint a Deputy Leader and up to six further executive members. The Leader may remove the Deputy Leader and Executive Members shall hold office until: The Deputy Leader and Executive Members will automatically be removed from office if;

~~(iaa)~~ they~~he/she~~ resigns from ~~the~~ office; or

~~(biib)~~ they are no longer Members of the Council; ~~he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or~~

~~(iiice)~~ he/she is no longer a councillor; they are removed by means of the Leader's notification at or as soon as practicable after the next annual meeting; or

~~(ivdd)~~they are removed from office by the Leader giving written notice of the removal to the Monitoring Officer. The removal will take effect two working days after receipt of the notice by the Monitoring Officer.

~~6.4.4(d)~~6.4.4 If for any reason the Leader is unable to act or the office of Leader is vacant and the Deputy Leader is unable to act or if the office of Deputy Leader is vacant, the Executive must act in the Leader's place or must arrange for an Executive Member to act in the Leader's place.

6.5 Functions of the Executive

~~6.5.1(a)~~6.5.1 The role of the Executive has the following functions is
to, to

- (aia) make key decisions as defined in **ArticleChapter 11** and published in the Forward Plan;
- (ibib) formulate the annual budget and Policy Framework for submission to Council in accordance with the budget and Policy Framework procedure rules in Part 4 of the Constitution;
- (ivce) implement the approved budget and Policy Framework;
- (vdd) determine recommendations and other matters referred to it by committees, sub-committees or the **C**ouncil;
- (vieve) carry out all of the functions which by law the Executive must carry out or it has chosen to carry out and which have not been delegated elsewhere; and
- (viiff) ensure the publication of, and to consider, the plan of items likely to come before it for decision at least 28 days before the decision is due to be made.

6.5.2(b)6.5.2 The **Executive** may carry out its functions:

- (aia) itself and only by itself if so determined by law;
- (biib) by delegating power to an individual member of the Executive, to be exercised in accordance with the rules in **Appendix B to this ArticleChapter 6** set out in Part 4D, section 3 of this Constitution;
- (iiice) by delegating power to an officer, who shall exercise that power in accordance with the scheme of delegation to officers contained in Part 3 of the Constitution; or
- (ivdd) by delegating power to a joint committee, area committee or another local authority.

6.5.3(c)6.5.3 A list of portfolio responsibilities will be maintained by the Leader and will set out the responsibilities of individual members of the Executive. The full list is in **Part 3E** of the Constitution **Chapter**

In addition the responsibilities of officers and joint arrangements for the exercise of particular Executive functions will be maintained. The Leader is empowered to amend the portfolios during the civic year.

6.6 Meetings of the Executive

~~6.6.1(a)~~6.6.1 The Executive will hold public meetings as frequently as is required for the effective discharge of its functions on dates and at times agreed by the Leader. Meetings will be conducted in accordance with the Executive Procedure rules set out in Part 4D of the Constitution. Meetings will usually be held at the council's offices in Hertford but can be held at other locations determined by the Leader.

~~6.6.2(b)~~6.6.2 To ensure it is briefed and/or consulted upon its functions, the Executive may hold other informal (not public) meetings as are necessary for it to carry out its work effectively. To ensure transparency and facilitate good scrutiny, matters discussed at these meetings that are intended to be put to the Executive for decision will, unless a decision is required urgently, be included in the Forward Plan.

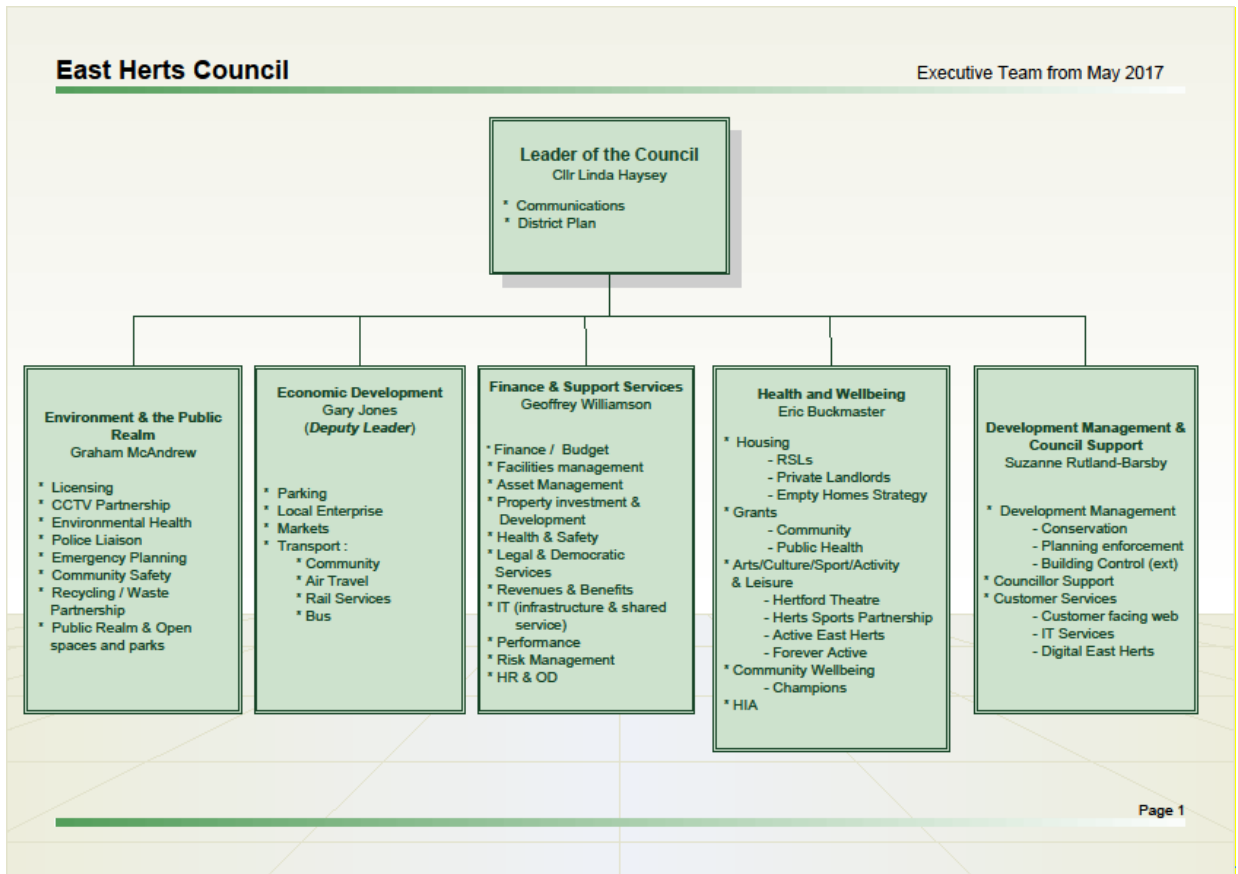
7.5 Proceedings of the Executive

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

7.6 Responsibility for functions

The Leader determines the allocation of Executive functions. The Leader will maintain a list setting out which individual members of the Executive, Committees of the executive, officers or joint arrangements are responsible for the exercise of particular executive functions within their respective portfolio areas (see table at Part 3, section 4 of this Constitution).

Executive Members' : to be reviewed at the final read-through



Appendix B: Procedure for decision-making by individual Portfolio Holders

Individual Executive Members are empowered in line with their portfolios and delegations listed in Part 3 E of the Constitution to make Executive decisions subject to the exceptions listed.

The exceptions are:

a decision which would be a departure from the agreed annual budget or Policy Framework;

a decision which the Leader has indicated should be taken collectively by the . Executive. Notification of this by the Leader must be made to the Head of Legal and Democratic Services;

a decision solely in relation to the Executive Member's own ward including, for example, making a grant, unless this is agreed by the Leader; This does not prevent the use of the Executive Member's Locality Budget.

a decision in which the Executive Member has either a disclosable pecuniary interest or some other conflict of interest;

an executive decision delegated to an officer unless the officer refers the decision to the Executive Member;

a decision which the Monitoring Officer or Chief Executive has determined is not an executive decision.

2. The Executive may delegate any decision to an individual Executive Member who must then follow the procedure in this document in making that decision.

3. The decisions must be made in consultation with officers deemed appropriate by the Chief Executive and the Executive Member must take into account the professional, legal and financial implications and any advice given by those officers.

4. Where there are significant cross-cutting implications the decision should be made in consultation with other appropriate portfolio holder(s).

5. Where a decision has significant impact on an individual ward the Executive Member should consult the appropriate ward member.

~~6. — Where it is not clear in which portfolio an issue sits, the Leader shall decide. If the appropriate portfolio holder is unavailable and a decision needs to be taken urgently, then the Leader may take the decision in consultation with the Chief Executive.~~

Notification and Publication

~~“Wherever possible, 5Five **clear** days” notice of the intention to make a decision under these delegated powers will be given to all Members of the Council, by notice sent electronically and published on the Council website together with any supporting report.~~

~~Where 5 clear days’ notice is not practicable for exceptional reasons relating to the urgent need to action the decision, the Executive Member should give notification of the intent to make the decision as soon as possible explaining the reasons for the short notice.~~

~~The decision must be recorded on the appropriate form prepared and published by Democratic Services. The decision will be published and may not be implemented until after either:~~

~~(a) — the call-in period (5 working days after the date of publication) has expired; or~~

~~(b) — a call-in process has been completed.~~

~~Call-in, using the procedure in the Council Procedure Rules, may be made within five5 clear days of the decision being published and the usual process shall be followed.~~

ArticleChapter 76 – Scrutiny Committees

76.1 General roleIntroduction

7.1.1(a) Effective overview and scrutiny is essential to enhance the accountability and transparency of the decision-making process. The CCouncil has appointed an Overview and Scrutiny Committee and a Performance, Audit and Governance Scrutiny Committee to discharge the functions conferred by section 9F of the Local Government Act 2000 and any regulations. These scrutiny committees will discuss issues in public and take a cross-cutting approach to their work. In accordance with section 9FA of the above Act they may appoint one or more sub-committees to carry out any of their functions. They will seek to improve the delivery of policies and services by:

(ia) holding the Executive to account for its actions;

(bii) advising on the development and implementation of new policy and corporate projects;

(iiie) testing whether existing policies and practices are effective and efficient and suggesting how they might be improved; and

(ivd)ensuring the rigour and objectivity of performance management and service reviews.

7.1.2(b) The Performance, Audit and Governance Scrutiny Committee will have the specific role of

monitoring the budget, and it oversees the performance of services by considering a range of information such as performance indicators, inspection reports and action plan monitoring. It approves the Council's Statement of Accounts and is also the Council's audit committee. This Committee also carries out the Treasury Management functions set out in detail in the Overview and Scrutiny Procedure Rules in Part 4 of this Constitution.

Within their terms of reference, scrutiny committees will:

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

7.2 The Overview and Scrutiny Committee

7.2.1(a) The Council will appoint an Overview and Scrutiny Committee of up to 14 members, or as many as Council determines from time to time, and it

will normally be politically balanced. No member of the Executive may be a member of the Overview and Scrutiny Committee.

7.2.2(b) The primary purpose of the Committee is to improve the delivery of policies and services. ~~To do this it will exercise the~~ its terms of reference are as follows; the performance of all overview and scrutiny functions on behalf of the Council and as set out in section 9F of the Local Government Act 2000, summarised below, to:

(ia)- review and scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;

(bii)- agree reports and make recommendations to the Council and the Executive in connection with the discharge of any functions;

(iie)- consider any matter affecting the area or its inhabitants;

(ivd)- question members of the Executive and officers about their views on issues and proposals affecting the area;

(ve)- liaise with external organisations operating in the area, whether national, regional or local, to ensure the interests of local people are enhanced by collaborative working;

(vif)- exercise the right to 'call in' for reconsideration of decisions made but not yet implemented by

the Executive, in accordance with the rules set out in this Constitution;

(viig)- consider any matter which has been placed on the agenda of the committee by any member of the committee in accordance with the rules of procedure in this Constitution;

(viiih)- act as the Crime and Disorder Committee for the purposes of section 19 of the Police and Justice Act 2006;

(ix)- undertake consideration of such matters that will be key decisions where the Executive requests the Committee to scrutinise the matter in advance of an the decision being taken. This relates to matters that are of particular interest to the committee, for example, decisions to be made on significant place making projects;

(xj)- review current service delivery models (the council's own and those of the council's partners) with a view to identifying gaps, exploring innovative solutions to delivery issues;

(xik)- review draft strategies; and

(xiiI)- consider issues or functions in which Members feel they could shape future policy.

7.2.3(c) For specific issues, the above work can be carried out by task and finish groups, which will be appointed and managed by the committee. These

groups will draw upon the knowledge and expertise of all Members of the Council.

7.2.4(d) Holding the Executive to Account:

The Overview and Scrutiny Committee will hold the Executive to account for the discharge of its functions. The principal ~~elements~~ways by which it will do this are as follows:

- (ia) scrutinising decisions which the Executive is planning to take, as set out in the Forward Plan or of which proper notice is given (including decisions referred to it in accordance with paragraph 6.6.2 of ~~Article~~Chapter 6);
- (~~b~~ii) scrutinising decisions of the Executive and individual Executive Members before they are implemented and if necessary using the 'call-in' mechanism to require the decision taker to reconsider the earlier decision; and
- (~~iii~~e) scrutinising decisions of the Executive or Executive Members after they have been implemented as part of a wider review.

7.3 Performance, Audit and Governance Scrutiny Committee

- 7.3.1(a) The Council will also appoint a Performance, Audit and Governance (PAG) Scrutiny Committee of up to 14 members, which will normally be politically balanced. This committee shall review progress on delivery of the corporate strategic plan, the Medium Term Financial Plan and the key performance metrics of the Council. It may set up task and finish groups where appropriate, and shall also have a sub-committee to deal with Member Code of Conduct

issues, to be known as the Standards Sub-Committee.

7.3.2(b) Within its terms of reference the committee will monitor and scrutinise the performance of the council's services by having regard to a variety of information, including performance indicators, financial information, reports from external inspections, audit reports, and monitoring of action plans. No member of the council's Executive may be a member of the Performance, Audit and Governance Scrutiny Committee.

7.3.3(c) The terms of reference of the PAG Committee are that it will:

(i1): assist the Council and the Executive in the development of the annual budget;

(ii2): act as the council's Audit Committee. The nature of this role is specified in the Procedure Rules in Part 4 of this Constitution;

(iii3): consider means of improving and promoting the performance management and audit functions of the council;

(iv4): promote and maintain the Ethical Standards Framework;

(v5): make recommendations taking into account the advice of the Monitoring Officer of periodic amendments and updating of the Council's Constitution;

Audit function

(vi6). ~~undertake~~ as an integral part of its role as the Council's Audit Committee, ~~undertake~~ the following areas:

-
- ~~(i)6.1~~ **integration of the audit role:** To ensure that the principles of effective audit are integrated into the work of the Performance, Audit and Governance Scrutiny Committee and the Council generally;
-
-
- ~~(ii)6.2~~ **risk management:** To provide assurance of the effectiveness of the corporate risk assessment process and monitor the effective development and operation of risk management policies in the council, specifically including monitoring of the Risk Management Strategy and the Corporate Risk Register;
-
- ~~(iii)6.3~~ **internal audit and governance:** To provide an effective mechanism to monitor the control environment within the council, ensuring the highest standards of probity and public accountability by:
 -
 - reviewing and approving of the Annual Audit Plan;
 - challenging and follow-up of internal audit recommendations;

-
- [reviewing internal audit performance;](#)
-
- [reviewing the Annual Governance Statement and Statement of Internal Control; and](#)
-
- [reviewing the anti-fraud and corruption controls and arrangements \(including the whistleblowing process\)](#)

■

- ~~(iv)~~ **[financial statements and annual accounts](#)**: [To provide scrutiny of the council's financial performance by scrutinising the:](#)

-
- [finance -monitoring reports;](#)
-
- [Medium Term Financial Planning;](#)
-
- [financial outturn reports;](#) and
-
- [Statement of Accounts](#)

■

- ~~(v)~~ **[treasury management](#)**: [To provide scrutiny of:](#)

-
- [the council's responses to changes in statutory and regulatory requirements and guidance;](#)

-
- [the annual Treasury Management and Investment Strategy;](#)
-
- [ongoing revisions to treasury management strategies and policies;](#)
and
-
- [the mid-year treasury management review](#)
-
- ~~(vi)~~ **external audit:** [To maintain and develop a trusting and professional relationship with the council's external auditors and ensure any issues arising from inspection are dealt with including:](#)
 -
 - [annual audit and Inspection plan and any resulting reports;](#) and
 -
 - [consideration of how the external audit is conducted and any issues arising](#)
-
- ~~(vii)~~ **[Annual Audit Letter](#)**
- ~~(viii)~~ **[Statement of Auditing Standard \(SAS\) 610 Communications](#)**
-
- ~~(ix)~~ **procurement:** [To ensure formal reporting of procurement issues including:](#)
 -
 - [contract waivers;](#)

-
- [update and revision of Contract Procedure - Rules](#); and
-
- issues arising from contracts that may impact on the council's finances

Ethical Standards Framework

(~~viii~~) ~~To~~ promote and maintain high standards of conduct by Members and Co-~~O~~pted Members of the Council;

(~~viii~~) ~~To~~ advise and assist Town and Parish Councils and ~~Councillors~~ ~~Members~~ to maintain high standards of conduct and to make recommendation to Town and Parish Councils on improving standards or actions following a finding of a failure by a Town or Parish Member to comply with the Code of Conduct;

(~~ix~~) ~~To~~ manage complaints on behalf of Town and Parish Councils;

(~~x~~) ~~To~~ advise the Council on the adoption or revision of the Members' Code of Conduct;

(~~x~~) ~~To~~ receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the ~~Council's~~ ~~council's~~ assessment criteria;

- (~~xii~~) ~~To~~ receive reports from the Monitoring Officer and assess the operation and effectiveness of the Members' Code of Conduct;
- (~~xiii~~) ~~To~~ train Members and Co-opted Members to observe the Members' Code of Conduct;
- (~~xiv~~) ~~To~~ assist Members and co-opted Members to observe the Members' Code of Conduct;
- (~~xv~~) ~~To~~ hear and determine complaints about Members and Co-Opted Members referred to it by the Monitoring Officer;
- (~~xvi~~) ~~To~~ advise the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards or conduct throughout the ~~Council~~council;
- (~~xvii~~) ~~To~~ maintain an oversight of the ~~Council's~~council's arrangements for dealing with complaints;
- (~~xviii~~) ~~To~~ inform the Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints;
- (~~xix~~) ~~To~~ appoint the Standards Sub-Committee drawn from three ~~Members~~members of the PAG Committee which will exercise, on a delegated basis, the functions as set out in the sub-committee terms of reference. The ~~Committee~~committee should reflect Member representation where practicable~~;~~.

(~~xx~~) exercise ~~t~~The power to consider and grant dispensations to Members where:

-
- ~~T~~the number of Members precluded from transacting the business is so great that it would impede the business of the Council, committee or Executive; or
- ~~T~~the political balance is affected to the extent that it could affect the outcome of a vote relating to the business.

Standards Sub-Committee Terms of Reference

(~~ia~~) To consider investigation reports in respect of Code of Conduct complaints that are referred to it by the Monitoring Officer.

(~~bii~~) To conduct a hearing into an allegation that a Member or co-opted Member of the Council or Town/Parish Council has breached the relevant code of conduct. At such hearing, the Member against whom a complaint has been made may respond to the investigation report. Following the hearing the sub-committee can make one of the following findings:

-
- (~~i~~) ~~T~~that the Member has *not* failed to comply with the Code of Conduct and no further action needs to be taken in respect of the matters considered at the hearing; ~~;~~
-
- (~~ii~~) ~~T~~that the Member *has* failed to comply with the Code of Conduct but no further

action needs to be taken in respect of the matters considered at the hearing; or

■

- ~~(iii)~~ That the Member *has* failed to comply with the Code of Conduct and a sanction and/or an informal resolution should be imposed.

~~(iii)~~ The sub-committee may impose any action or combination of actions available to it, or impose any informal resolution or combination of informal resolutions as are available to it either by law or policy.

~~(iv)~~ After making a finding the sub-committee shall, as soon as reasonably practicable, provide written notice of its findings and the reason for its decision to the Member and the complainant.

~~(ve)~~ To apply Note—The Council on 18 May 2016 approved a the council's Standards Complaints Procedure and a Complaints Standards Sub-Committee Procedure ~~for~~to hearings before the sub-committee. ~~They shall continue to apply to the work of the sub-committee.~~

7.4 Finance

~~7.4.1~~ The Overview and Scrutiny Committee and Performance, Audit and Governance Scrutiny Committee may exercise overall responsibility for any finances made available to them.

7.5 Annual Report

7.5.1—The Overview and Scrutiny Committee and Performance, Audit and Governance Scrutiny Committee must report annually to the ~~full~~ Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

7.6 Officers

7.6.1—The Overview and Scrutiny Committee and Performance, Audit and Governance Scrutiny Committee may exercise overall responsibility for the work programme of any officers employed to support their work.

7.7 Proceedings of the Committees

7.7.1 The Overview and Scrutiny Committee and Performance, Audit and Governance Scrutiny Committee will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

7.8 Work Programme

7.8.1(a) The Rules of Procedure in Part 4 of this Constitution will also provide mechanisms to allow all Members of the Council the opportunity to place an item on the agenda of the Overview and Scrutiny Committee and the Performance, Audit and Governance Scrutiny Committee.

7.8.2(b) When practicable, the Overview and Scrutiny Committee will publish a forward work programme or

list of items likely to be considered over the next four months.

7.9 Working Methods

7.9.1 The following principles should be adhered to by the Overview and Scrutiny Committee and Performance, Audit and Governance Scrutiny Committee when carrying out their work:

- (a) a variety of different approaches and formats for meetings may be used;
- (b) task and finish groups reporting periodically and at the end of reviews to the Overview and Scrutiny Committee should be encouraged as the preferred method of scrutiny reviews;
- (c) membership of the Committees and their sub groups (if applicable) should be tailored to ensure appropriate skills and expertise, and external input, are brought to bear;
- (d) when appropriate, full consultation with all other stakeholder groups and organisations should take place;
- (e) the declaration of interest rules shall apply;
- (f) the imposition of the Party Whip is regarded as incompatible with the work of the Council's Scrutiny Committees;

- (g) the chairman and vice-chairman of each Scrutiny Committee will meet at least quarterly with the Leader and Deputy Leader of the Council to ensure that the work of these Committees is properly co-ordinated;
- (h) where any Scrutiny Committee is reviewing the work of a Regulatory or other Committee of the Council (as opposed to the Executive) it will not scrutinise individual decisions made by such Committees, particularly decisions in respect of development control, licensing, registration, consents and other permissions. In particular, scrutiny will not be an alternative to normal appeals procedures. However, the Overview and Scrutiny Committee has the power to make reports and recommendations on functions which are not the responsibility of the Executive, an option normally to be used as part of wider policy reviews.

7.10 Support

~~7.10.(a)1~~ In order that the Overview and Scrutiny Committee can perform its roles properly, it shall be given the following support:

~~(a)~~ effective and properly resourced support from officers;

~~(b)~~ appropriate financial resources;

(iii) access to the advice of the ~~E~~council's Monitoring Officer;

(iv) the ability to require ~~Members of the~~ Executive ~~Members~~ and officers to attend to answer questions;

(v) specific training and development for all persons who undertake overview and scrutiny duties; and

(vi) ~~access to~~ the Forward Plan, containing details of all the matters likely to be the subject of key decisions, or to be considered in private by the Executive, or its Committees or by officers, ~~shall be made available to all Members of the Overview and Scrutiny Committee~~ ~~Committee~~.

7.10.2(b) In order that the Performance, Audit and Governance Scrutiny Committee can perform its role properly it shall also be given the following support:

(a) effective and properly resourced support from officers;

(b) appropriate financial resources;

(iii) access to external auditors who report directly to the Committee and to the Internal Audit Service Manager; and

(iv) specific training and development as required.

6.2 Terms of reference

The Council will appoint the scrutiny committees set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table.

Committee	Scope
Corporate Business Scrutiny	1. To develop policy options and to review and scrutinise the policies of the Council relating to Corporate Communications, Corporate Performance and Risk Management, East Herts Strategic Partnership, Customer Service, Finance, Information and Communications Technology, Democratic Services, Member Support and Development, Facilities Management and Property Services, Asset Management, Legal, Revenues and Procurement.

- ~~2. To consider the budget setting proposals and strategies of the Council.~~
- ~~3. To make recommendations to the Executive on matters within the remit of the Committee.~~
- ~~4. To take evidence from interested groups and individuals and make recommendations to the Executive and Council for policy change on matters within the remit of the Committee.~~
- ~~5. To consider issues referred by the Executive, including modifications to the Constitution, or members of the Committee and where the views of outsiders may contribute, take evidence and report to the Executive and Council on matters within the remit of the Committee.~~
- ~~6. To consider any item referred to the Committee by any Member of the Council who is not a member of this Committee~~

Committee	Scope
	<p>and decide whether that item should be pursued on matters within the remit of the Committee.</p> <p>7. To appoint Task and Finish Groups as may be determined, which shall be given a brief to consider a specified service area relating to matters within the remit of the Committee and report back to the Committee on a regular basis as determined by the Committee.</p> <p>8. To consider, should it choose to do so, any item within the remit of the Committee to be considered by the Executive (except items of urgent business). The relevant report to the Executive shall consider any report and recommendations on the item submitted by the Scrutiny Committee.</p>
Community Scrutiny	<p>1. To develop policy options and to scrutinise the policies of the Council relating to Licensing, Environmental</p>

Committee	Scope
	<p data-bbox="954 264 1406 689">Health, Community Safety, Emergency Planning, Community Development, Housing Services, leisure, sport, arts, markets, community grants, frontline Councillor engagement, Equalities, citizens' advice, benefits and East Herts Strategic Partnership.</p> <p data-bbox="858 790 1406 954">2. To make recommendations to the Executive on matters within the remit of the Committee.</p> <p data-bbox="858 1055 1422 1435">3. To take evidence from interested groups and individuals and make recommendations to the Executive and Council for policy change and review the performance of outside bodies on matters within the remit of the Committee.</p> <p data-bbox="858 1536 1406 1917">4. To consider issues referred by the Executive, or members of the Committee and where the views of outsiders may contribute, take evidence and report to the Executive and Council on matters within the remit of the Committee.</p>

Committee

Scope

- ~~5. To consider any item referred to the Committee by any Member of the Council who is not a member of this Committee and decide whether that item should be pursued on matters within the remit of the Committee.~~
- ~~6. To appoint Task and Finish Groups as may be determined which shall be given a brief to consider a specified service area relating to matters within the remit of the Committee and report back to the Committee on a regular basis as determined by the Committee.~~
- ~~7. To consider, should it choose to do so, any item within the remit of the committee to be considered by the Executive (except items or urgent business). The relevant report to the Executive will be made available to the Scrutiny Committee. The Executive shall consider any report and recommendations on the item submitted by the Scrutiny Committee.~~

Committee	Scope
	<p>8. To consider matters referred to the Committee by the Executive/Portfolio Holder on matters within the remit of the Committee and refer the matter to the Executive following consideration of the matter.</p>
<p>Environment Scrutiny</p>	<p>1. To develop policy options and to review and scrutinise the policies of the Council relating to planning policy, local development framework, Building Control, Planning Enforcement, Development Management, Transport, parking, economic development, waste and recycling management, environmental standards, parks and open spaces, historic buildings and conservation, street scene, Climate Change and East Herts Strategic Partnership.</p> <p>2. To make recommendations to the Executive on matters within the remit of the Committee.</p> <p>3. To take evidence from</p>

Committee	Scope
	<p>interested groups and individuals and make recommendations to the Executive and Council for policy change on matters within the remit of the Committee.</p> <p>4. To consider issues referred by the Executive, or members of the Committee and where the views of outsiders may contribute, take evidence and report to the Executive and Council on matters within the remit of the Committee.</p> <p>5. To consider any item referred to the Committee by any Member of the Council who is not a member of this Committee and decide whether that item should be pursued on matters within the remit of the Committee.</p> <p>Committee Scope</p> <p>6. To appoint Task and Finish Groups as may be determined which shall be given a brief to consider a specified service area relating to matters within the remit of the Committee and report back to the Committee on a regular</p>

Committee**Scope**

~~basis as determined by the Committee.~~

~~7. To consider, should it choose to do so, any item within the remit of the Committee to be considered by the Executive (except items of urgent business). The relevant report to the Executive will be made available to the Scrutiny Committee. The Executive shall consider any report and recommendations on the item submitted by the Scrutiny Committee.~~

~~8. To consider matters referred to the Committee by the Executive/ Portfolio Holder on matters within the remit of the Committee and refer the matter to the Executive following consideration of the matter.~~

Committee

Scope

Health and Wellbeing Scrutiny

1. To consider matters relating to health in East Herts, in particular to scrutinise (a) local public health issues in the East Herts area, (b) partner actions to reduce health inequalities in the East Herts area, and (c) arrangements for the provision of public health initiatives in the East Herts area; Community Wellbeing, Ageing Well Initiative, Fuel Poverty, East Herts Well-Being Fund, Disabled Facilities Grants, Dementia Friendly Homes and East Herts Strategic Partnership.
2. To make recommendations to the Executive on matters within the remit of the Committee.
3. To take evidence from interested groups and individuals and make recommendations to the Executive and Council for policy change on matters within the remit of the Committee.
4. To consider issues referred by the Executive, or members of the Committee

Committee	Scope
	<p>and where the views of outsiders may contribute, take evidence and report to the Executive and Council on matters within the remit of the Committee.</p>
	<p>5. — To consider any item referred to the Committee by any Member of the Council who is not a member of this Committee and decide whether that item should be pursued on matters within the remit of the Committee.</p>
	<p>Committee Scope</p>
	<p>6. — To appoint Task and Finish Groups as may be determined which shall be given a brief to consider a specified service area relating to matters within the remit of the Committee and report back to the Committee on a regular basis as determined by the Committee.</p>
	<p>7. — To consider, should it choose to do so, any item within the remit of the Committee to be considered by the Executive (except items of urgent business). The relevant report to the Executive will be made</p>

Committee	Scope
	<p>available to the Scrutiny Committee. The Executive shall consider any report and recommendations on the item submitted by the Scrutiny Committee.</p> <p>8. To consider matters referred to the Committee by the Executive/ Portfolio Holder on matters within the remit of the Committee and refer the matter to the Executive following consideration of the matter.</p>

6.3 Specific functions

(a) **Policy development and review.** Scrutiny Committees may:

- (i) assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;

- ~~(iii) — consider and implement mechanisms to encourage and enhance community participation in the development of policy options; and~~
- ~~(iv) — question members of the executive and/or committees and chief officers about their views on issues and proposals affecting the area; and~~
- ~~(v) — liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.~~
- ~~(vi) — review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the scrutiny committee and local people about their activities and performance.~~

~~(b) —~~ **Call In**

~~Within their terms of reference, scrutiny committees may:~~

- ~~(i) — review and scrutinise the decisions made by and performance of the executive and/or committees and council officers both in relation to individual decisions and over time;~~
- ~~(ii) — review and scrutinise the performance of the Council in relation to its policy objectives;~~

performance targets and/or particular service areas;

(iii) — question Members of the executive and/or committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

(iv) — make recommendations to the executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;

and

(v) — question and gather evidence from any person (with their consent).

(c) — **Annual report.** Scrutiny committees must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

(d) — **Officers.** Scrutiny committees may exercise overall responsibility for the work programme of the officers employed to support their work. It is the responsibility of the executive in conjunction with the Head of the Paid Service to ensure appropriate and adequate officer support for the work of Scrutiny Committees.

6.4 — **Proceedings of scrutiny committees**

~~Scrutiny committees will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.~~

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ArticleChapter 8 – Regulatory and other committees

8.101 Regulatory and other committees

~~The Council will appoint the committees set out in Part 3 of this Constitution to discharge the functions described there.~~

The Council must appoint committees to deal with functions such as licensing, town and country planning controls and any other functions which by law are not to be functions of the Executive or Council. Although a brief summary of their main areas of work is set out below, all the functions discharged by these committees is set out in detail in Part 3 of this Constitution.

8.2 Development Management Committee

This committee is responsible for matters relating to the control of the use of land including planning and listed building consent, the preservation of buildings and trees, conservation areas and enforcement.

8.3 Licensing Committee

This committee's responsibilities include regulating the sale of alcohol, the provision of public entertainment and gambling, and taxis/private hire vehicles and drivers.

8.4 Other committees

The Council will appoint other committees as set out in Part 3 of this Constitution to discharge the functions described there.

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ArticleChapter 9 – Joint Arrangements and Working Groups

9.1 Arrangements to promote well-being

~~The Council or the Executive, in order to promote the economic, social or environmental well-being of its area, may:~~

- ~~(a) enter into arrangements or agreements with any person or body;~~
- ~~(b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and~~
- ~~(c) exercise on behalf of that person or body any functions of that person or body.~~
- (a) The Council or the Executive, in order to promote the economic, social or environmental wellbeing of its area or to carry out activities under the general power of competence may:
 - (i) enter into arrangements or agreements with any person or body;
 - (ii) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
 - (iii) exercise on behalf of that person or body any functions of that person or body;
 - (iv) subject in all cases to compliance with statutory requirements.

9.2 Joint arrangements

- ~~(a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive~~

~~functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.~~

~~(b) The executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.~~

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

~~(d) The executive may appoint members to a joint committee from outside the executive in the following circumstances:~~

- ~~• the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the executive may appoint to the joint committee any councillor who is a Member for a ward which is wholly or partly contained within the area,~~

~~The political balance requirements do not apply to such appointments.~~

~~(e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.~~

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions in any of the participating authorities. Such arrangements may involve the appointment of a joint committee with such other local authorities.
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with such other local authorities.
- (c) Except as set out in 9.2.4 below, the Executive may only appoint Executive Members to a joint committee and those Members need not reflect the political balance of the Council as a whole.
- (d) The Executive may appoint Members to a joint committee from outside the Executive in any of the following cases, and the political balance requirements need not apply to such appointments:
 - (i) where the joint committee has functions for only part of the area of the council, and that area is smaller than two-fifths of the council by area or population. In such cases, the Executive may appoint to the joint committee any Member who is a Member for a ~~ward~~ which is wholly or partly contained within that part of the area of the council;
 - (ii) the joint committee is discharging a function in relation to five or more authorities; or
 - (iii) the function which the joint committee is discharging is one which is required by statute to be discharged by a joint committee.
- (e) Details of any joint arrangements, including any delegations to joint committees, will be found in the council's scheme of delegations in Part 3 of this Constitution.

9.3 Working Groups

- (a) The Council, Executive or committees may appoint from time to time such working groups as they think fit. The working groups which have been appointed are identified in Part 3 of this Constitution.
- (b) The Code of Conduct for Members will apply to Members participating in a working group.

9.43 Access to information

- ~~(a)~~(a) The Access to Information Rules in Part 4 of this Constitution apply to any joint arrangements.
- ~~(b)~~(b) If all the members of a joint committee are members of the Executive in each of the participating authorities then theirs access to information regime of the joint committee will be ~~is~~ the same as that applied to the Executive.
- ~~(c)~~(c) If the joint committee contains members who are not on the Executive ~~in~~ of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 (as amended) will apply.

9.54 Delegation to and from other local authorities

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

9.56 Contracting out

~~The executive may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided~~

~~there is no delegation of the Council's discretionary decision making.~~

The Council (in respect of functions which are not the responsibility of the Executive) and the Executive (in respect of executive functions) may contract out to another body or organisation any functions which may be exercised by an officer and which are subject to an Order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making.

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Article ~~Chapter~~ 10 – Officers

10.0 Terminology

~~10.1~~ 1.1 Management structure

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

Post	Functions and areas of responsibility
Chief Executive	Head of Paid Service
Directors	Deputi <u>esse</u> for the Head of Paid Service
Such posts as may be designated Chief Officers <u>in line with specific legislation</u>	

- (c) ~~(c)~~ **Head of Paid Service, Monitoring Officer, and Chief Financial Officer and Data Protection Officer**: The council will designate the following posts as shown.

<u>Designation</u>	Post
<u>Head of Paid Service</u>	Chief Executive
<u>Monitoring Officer</u>	Head of Legal and Democratic Services
<u>Chief Financial Officer (s151 officer)</u>	Head of Strategic Finance and Property Services
<u>Data Protection Officer</u>	<u>Data Protection Officer</u>

- (d) Such posts will have the functions described in ArticleChapter 140.2 – 10.54 below. The duties of the Monitoring Officer and the Chief Finance Officer can be carried out by a deputy, ~~nominated~~appointed by them, in case of absence or illness.
- (e) ~~(d)~~ **Structure:** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.
- (f) ~~(e)~~ The ~~appointment~~Chief Executive and the directors are to be appointed by the Chief Officer Recruitment Committee, with the Chief Executive appointment to be ~~subsequently~~ratified by Council.
- (g) ~~(f)~~ The appointment of the Monitoring Officer and Chief Financial Officer (s151 officer) are to be ~~carried out by the Chief Executive, and~~ ~~subsequently~~ratified by Council.

10.2 Functions of the Head of Paid Service

10.2.1 ~~(a)~~ **Discharge of functions by the ~~c~~Council:** The Head of Paid Service will report to ~~full~~Council on the manner in which the discharge of the ~~c~~Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

10.2.2 ~~(b)~~ **Restrictions on functions:** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer if a qualified accountant.

10.3 Functions of the Monitoring Officer

10.3.1 ~~(a)~~ **Maintaining the Constitution:** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, officers and the public and that its aims and principles are given full effect.

10.3.2 ~~(b)~~ Ensuring lawfulness and fairness of decision making: After consulting ~~with~~ the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to ~~the full~~ Council, ~~or~~ to the ~~E~~xecutive in relation to an executive function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

10.3.3 ~~(c)~~ Supporting the Performance, Audit and Governance Committee: The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Performance, Audit and Governance Committee.

10.3.4 ~~(d)~~ Conduct investigations: The Monitoring Officer together with the Independent Person if appropriate will conduct investigations into complaints.

10.3.5 referred to or by the Monitoring Officer and Independent Person.

Ensure access to information: The Monitoring Officer will ensure that there are procedures in place for executive decisions, together with the reasons for those decisions and relevant officer reports and background papers, to be made publicly available as soon as possible.

10.3.5 ~~(f)~~ Advise whether Executive decisions are within the budget and the Policy Framework: The Monitoring Officer will advise whether decisions of Council or the Executive are in accordance with the budget and Policy Framework.

10.3.6 ~~(g)~~ Provide advice: The Monitoring Officer will provide advice on the scope of powers and authority to take

decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members.

10.3.7 ~~(dh)~~ — **Restrictions on posts.** The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.

10.4 Functions of the Chief Financial Officer

10.4.1 ~~(a)~~ **Ensure**ing **lawfulness and financial prudence of decision making:** After consulting ~~with~~ the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to ~~the full~~ Council, or to the ~~E~~xecutive in relation to an executive function, and the ~~c~~Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the council is about to enter an item of account unlawfully. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

10.4.2 ~~(b)~~ **Administration Administer** ~~of financial affairs:~~ The Chief Financial Officer will have responsibility for the administration of the financial affairs of the council.

10.4.3 ~~(c)~~ **Contribute to corporate management:** The Chief Financial Officer will contribute to the corporate management of the council, in particular through the provision of professional financial advice.

10.4.4 ~~(d)~~ **Provide advice:** The Chief Financial Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members and will support and advise Members and officers in their respective roles.

10.4.5 ~~(e)~~ **Give financial information:** The Chief Financial Officer will ensure that financial information about the council is provided to the media, members of the public and the community.

10.5 Functions of the Data Protection Officer

10.5.1 The council shall appoint a Data Protection Officer (DPO) as required under the ~~(a)~~— General Data Protection Regulations (GDPR).

10.5.2 ~~(b)~~—The DPO shall provide assistance to:

- (a) monitor internal compliance with GDPR and any associated regulations;
- (b) inform and advise on the council's data protection obligations;
- (c) provide advice regarding Data Protection Impact Assessments (DPIAs); and
- (d) act as a contact point for data subjects and the supervisory authority.

10.5.3 ~~(c)~~—The DPO shall be an expert in data protection who is adequately resourced and able to act independent on data protection matters. The post shall report to the Head of Legal and Democratic Services.

10.65 Duty to provide sufficient resources to the Monitoring Officer and Chief Financial Officer

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

10.76 Conduct

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

10.87 Employment

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

ArticleChapter 11 – Decision Making

11.1 Responsibility for decision making

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

11.2 Principles of decision making

All decisions of the cCouncil will be made ~~in accordance with the following principles:~~

- (a) ~~(f) — after due consideration for the interests of residents and other stakeholders;~~
- (b) ~~(a) — proportionately, that is, lity (i.e. the action must be proportionate to the desired outcome); (b)~~
- (c) ~~after~~ due consultation and the taking of professional advice ~~from officers;~~
- (d) ~~(with respect for human rights and having regard to the council's public sector equality duty;~~
- (e) ~~(d) — with~~ a presumption in favour of openness;
- (f) ~~w(ith~~ clarity of aims and desired outcomes;
- (g)
- ~~(f) — and after due consideration for the interests of residents and other stakeholders (g) — such that they would be considered reasonable and rational based on sound judgement, within the common meaning of the words, and be reasonable within the legal meaning of 'reasonableness', that is all relevant considerations must be fully taken into account in reaching the decision and irrelevant considerations disregarded;~~

- (h) ~~(h)~~ in the case of 'quasi-judicial' decisions, for example a decision as to whether or not to grant a licence, with a fair hearing conducted in accordance with the rules of natural justice afforded to the person who is the subject of the decision;
- (i) ~~(i)~~ in accordance with the Policy Framework;
- (j) ~~i(i)~~ in compliance with council's schemes of delegation, financial rules and instructions relating to contracts; and
- (k) ~~(fk)~~ with an accompanying explanation of what options were considered and the reasons for the decision in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

11.3 Types of decision –

~~(a)~~ 11.3.1 **Decisions reserved to full Council:**
Decisions relating to the budget and Policy Framework functions listed in ~~Article~~ Chapter 4.2 and those to be made by the Council listed in Chapter 4.3 will be made by ~~the full~~ Council and not delegated.

11.3.2 **Executive decisions:** Executive decisions relate to executive functions determined by law and the provisions of this Constitution. Any decision taken within the council is an executive decision unless it relates to:

- ~~(ia)~~ (i) any matter listed in Chapters 4.2 and 4.3 of this Constitution as these are matters reserved for Council to decide; or
- ~~(iib)~~ (ii) a local choice function which has not been designated to the Executive in the table in Part 3A of this Constitution; or
- ~~(iiic)~~ (iii) is a non-executive function which the Council has delegated to a committee of the Council to determine, as covered. ~~These matters are covered~~

in sections 2 to 7 in Part 3B of this Constitution, or by an officer. ~~and~~ These decision are further defined in paragraph 11.3.5 below.

~~(e)~~11.3.3 Executive decisions may be taken by:

- ~~(ia)~~ the Executive meeting together; or
- ~~(b)~~~~ib~~ an individual Executive Members in line with their portfolios and delegations listed in Part 3E of this Constitution;
- ~~(iii)~~~~ce~~ a committee of the Executive in line with any authority delegated to the committee as listed Part 3B, sections 8, 9 and 10; or
- ~~(iv)~~~~d~~ by an Executive Member of officer if authority to make that decision has been specifically delegated by the Executive or the Leader of the Council.

~~11.3.4~~~~(d)~~11.3.4 A decision taker may only make an executive decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

~~(e)~~11.3.5 ~~5~~ ~~(bc)~~ ~~N~~ ~~on Executive Other D~~ecisions.
Decisions that are not executive decisions nor reserved to Council shall be taken by:

- ~~(ia)~~ Council;
- ~~(iib)~~ a committee to which Council has delegated power to act on its behalf; or
- ~~(iiic)~~ specific officers to whom powers have been delegated. In reaching such decisions, officers to whom powers have been delegated may consult the chairman of the relevant committee where to do so is expedient, and shall do so where an earlier decision so requires.

~~(f)~~11.3.6 ~~(d)~~ **Key decisions.**

~~(i)~~ ~~i)~~ ~~AaA~~ key decision¹ is an executive decision which “Key decision”, as defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, means an executive decision which is likely to:-

- (a) ~~(a)~~ to result in new the local authority incurring expenditure, income or savings [of more than £100,000 in relation to the council’s revenue or of capital programme budget, this being deemed significant having regard to the council’s overall budget] which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates; or
- (b) ~~(b)~~ to be significant in terms of its effects on communities living or working in an area comprising consisting of two or more wards or electoral divisions in the area of the local authority

~~(ii)~~ A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution. 11.3.7 ii) Provisions for taking key decisions in cases of urgency where they have not been included in the decisions plan are set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

~~(g)~~ 11.3.8 (e) **Non-Key Decisions.** A non-key decision is an executive decision that does not meet either criterion of a key decision as laid out above.

11.4 Referral of decision making to higher authority

An individual or body to whom power to make a decision has been delegated may decline to make that decision and

¹ ~~As defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012~~

refer it for decision by the relevant Committee, Executive Member, the Leader or by Council as appropriate

11.5 Decision making

Subject to ~~Article~~**Chapter 12.86**, making and recording decisions will be subject to the following provisions in this Constitution:

- (a) the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter;
- (b) -
- (b)
- (b)
- (b) ~~12.5 Decision making by the executive~~
- (b)
- (b) ~~Subject to Article 12.8~~, the ~~E~~executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter;

-

11.6 ~~Decision making by scrutiny committees~~

- (c)

~~S~~scrutiny committees will follow the Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter and recording decisions;

- (d) ~~12.8,~~ other Council and Executive committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them; and
- (e) officers making key or non-key executive decisions under delegated authority will follow those parts of the Executive Procedures Rules set out in Part 4 of this Constitution as are applicable
- (f) officers making other decisions shall consult as required under the delegated authority and shall record the decision on an Openness in Local Government Form.

11.68 ~~Quasi-judicial d~~Decision making by Council bodies acting as tribunals

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

11.7 Party Whip

~~11.7.1(a)~~11.7.1 The Party Whip is understood to mean any instructions given by or on behalf of a political group to any Member who is a member of that group as to how that Member shall speak or vote, or the application or threat to apply any sanctions by the group in respect of that Member should they speak or vote in any particular manner.

~~11.7.2(b)~~11.7.2 There shall be no Party Whip at meetings of:

- (ia) ~~the~~ the Development Management Committee;
- (b)ii) the District Planning Executive Panel;

- (iii) ~~(c)~~ the Overview & Scrutiny Committee;
- (iv) ~~(d)~~ the Performance, Audit and Governance Committee and any sSub-cCommittee;
- (e) ~~(e)~~ the Licensing Committee, and any sub-committee, when it is determining licences and conducting hearings; and
- (f) ~~(f)~~ any other committees where the committee meets to determine applications, hearings, appointments or acts in any quasi-judicial matter.

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ArticleChapter 12 - Finance, Contracts and Legal Matters

12.1 Financial management

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

12.2 Contracts

Every contract made by the council will comply with the Procurement Rules set out in Part 4 of this Constitution.

12.3 Legal proceedings

The Head of Legal and Democratic Services is authorised [by the Scheme of Delegation to Officers set out in Part 3 of this Constitution](#) to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the council or in any case where [the Head of Legal and Democratic Serviceshe or she](#) considers that such action is necessary to protect the council's interests.

12.4 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the council, it will be signed by the [Chief Executive or the](#) Head of Legal and Democratic Services or other person authorised by [him/herthe Head of Legal and Democratic Services](#), unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

[Any contract with a value exceeding £100,000 entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must be made under the common seal of the Council attested by a Director, the Head of Legal and Democratic Services or the Legal Services Manager.](#)

12.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal and Democratic Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal and Democratic Services should be sealed. Sealed documents will be signed by any one of the following officers of the council:

~~The affixing of the Common Seal will be attested by a~~

(a) ~~t~~ The Chief Executive;

(b) ~~a~~ A Director;

(c) ~~the~~ the Head of Legal and Democratic Services; or

(d) ~~the~~ the Legal Services Manager.

12.6 An entry of every sealing of documents shall be made and consecutively numbered in a register and be initialled by the person who attested the seal.

ArticleChapter 13 – Review and Revision of the Constitution

13.1 Duty to monitor and review the constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure ~~that the~~its aims and principles ~~of the Constitution~~ are given full effect and report to Members as appropriate.

13.2 Changes to the Constitution

- (a) Except as provided in (c) below, changes to this constitution will only be approved at a meeting of the Council after consideration of the proposal by the Monitoring Officer.
- (b) A vote at Council to change the Constitution should be passed by a simple majority of those present and voting.
- (c) The Monitoring Officer, in consultation with the Chief Executive, has delegated authority to make minor amendments to the constitution arising from changes to legislation, changes to staffing structures, job descriptions or changes in terminology. Such changes will be reported annually to Council. The Monitoring Officer also has authority to amend the constitution to implement decisions of the Leader in relation to the delegation of executive functions to the Executive.
- (d) If the proposal involves a change from the existing Leader and Cabinet form of executive to another form of executive, the council must take reasonable steps to consult with local electors and other interested persons in the District. If the proposed new form of executive involves an elected mayor, the council must also hold a referendum.

Protocol for monitoring and review of constitution by Monitoring Officer

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order to better achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:

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

13.2 Changes to the Constitution

- (a) **Approval.** Any change which results from a decision by the Council, Executive or other Committee where the function sits within their authority will be made by the Monitoring Officer following the decision and will be reported to the Council each year at the Annual Council. All other changes to the constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer.

ArticleChapter 14 – Suspension, Interpretation, Maintenancening and Publication of the Constitution

14.1 Suspension of the Constitution

- (a) **Limit to suspension:** The ~~ArticleChapter~~s of this Constitution may not be suspended. ~~The Rules specified below may be suspended by the full Council~~ Any rules of procedure, except those required by law, may be suspended to the extent permitted within those ~~r~~Rules and the law.
- (b) **Procedure to suspend:** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Members entitled to be present is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in ~~ArticleChapter~~ 1.
- ~~(c) **Rules capable of suspension.** The following Rules may be suspended in accordance with Article 15.1:~~
- ~~———— Council Procedure Rule 15 – Rule of Debate~~
- ~~———— Council Procedure Rule 16 – Previous decisions~~
- ~~———— Financial Regulations and Procurement Rules~~

14.2 Interpretation of the Constitution

The ruling of the Chairman ~~of the Council~~ (or in his/her absence the Vice Chairman), having received legal advice, as to the construction or application of this constitution or as to any proceedings of the council, shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in ~~ArticleChapter~~ 1.

14.3 Maintenanceaining of the Constitution

- (a) The Monitoring Officer will ensure that there are periodic operational reviews of the Constitution.
- (b) The Monitoring Officer will also ensure that an up-to-date version of this Constitution is maintained and that it is widely available for consultation by Members, staff and the public, as set out in Article 14.4 below.

14.4 **Publication**

- (a) On the Member first being elected to the Council, ~~the~~ Monitoring Officer will ~~give a printed copy~~ make an electronic copy of this Constitution available to him or her once that Member makes his or her declaration of acceptance of office.
- (b) The Monitoring Officer will ensure that copies are available for inspection on the council's website in a form that can be downloaded and that copies are available for inspection at council offices and can be purchased by members of the local press and the public on payment of a reasonable fee.

PART 3

Responsibility for Functions

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Functions and Responsibility - Section A

Responsibility for Local Choice Functions

The Council has the discretion to choose which part of the structure should be responsible for certain functions (known as “Local Choice Functions”). These are set out in Schedule 2 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended (the Regulations). The Council has determined that these functions will be the responsibility of the bodies set out in Column 2. In turn, the decision making body may delegate to the person or body specified in Column 3.

Function	Decision Making Body	Delegation
Functions under local Acts (other than a function specified in Regulations 2 and Schedule 1 of the Regulations)	Council	Heads of Service within their area of responsibility as defined in the Officer Scheme
The determination of an appeal against any decision made by or on behalf of the authority	Council	Unless there is a specific delegation to a committee
Any function relating to contaminated land	Council	Head of Housing and Health
The discharge of any function relating to the control of pollution or the management of air quality	Council	Head of Housing and Health
The service of an abatement notice in respect of a statutory nuisance	Council	Head of Housing and Health
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's	Executive	

area		
The inspection of the authority's area to detect any statutory nuisance.	Council	Head of Housing and Health
The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 or S.330 Town & Country Planning Act as amended 1990	Council	Head of Democratic & Legal Services
<p>The appointment of any individual</p> <p>(a) To any office other than an office in which he is employed by the authority:</p> <p>(b) To any body other than</p> <p style="padding-left: 40px;">i. The authority;</p> <p style="padding-left: 40px;">ii. A joint committee of two or more authorities; or</p> <p>(c) To any committee or sub-committee of such a body</p>	Council	Head of Paid Service

Functions and Responsibilities - Section B

1.0 Responsibility for functions

- 1.1 Sections 2 to 7 below set out how the Council has chosen to delegate responsibility for certain of its Local Choice and non-executive functions. Other delegations are contained in the Scheme of Delegation to Officers. Where no delegation is indicated, responsibility for Local Choice and non-executive functions remains with the Council. The delegation of powers and duties to committees and sub-committees shall be deemed to include, in any reference to an Act of Parliament, a reference to any subsequent Act or Acts which may amend, replace or extend it, and to any regulation, order or direction made under such Act or Acts.
- 1.2 Every committee appointed by the Council may appoint sub-committees for the purposes to be stated by the committee. The Members of a sub-committee will usually be Members or substitute Members of the appointing committee, unless it is deemed that the efficacy of the sub-committee's business will be enhanced by the appointment of any other Member at the discretion of the relevant political group leader.
- 1.3 Sections 8 to 10 below set out how the Executive has chosen to delegate responsibility for certain executive functions.
- 1.4 Any committee or sub-committee formed by the Council or Executive may, within its delegated authority, set up working parties or panels for the detailed study of any matter. Any working party/panel given delegated authority will become a sub-committee.

2.0 Development Management Committee

Remit

- 2.1 The Development Management Committee (in this Section 2 referred to as "the Committee") is authorised to undertake (or sub-delegate) all of the council's functions relating to town and country planning (excluding the preparation of plans and policies), development management and the protection of hedgerows and trees, as specified in Parts A and I of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended by subsequent regulations).

- 2.2 The Committee is also authorised to exercise the council's Local Choice Functions in relation to the obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land and the obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 (as specified in the table in Section 1 above).
- 2.3 In summary, the area of responsibility of this Committee includes all matters relating to the administration of town and country planning legislation (excluding the preparation of plans and policies), Listed Building and Conservation Area legislation, Hazardous Substances legislation and associated regulations within the purview of the council.

Membership and meeting arrangements

- 2.4 The Committee, consisting of 12 Members (and up to six substitutes), will be appointed annually by the Council and will be politically balanced.
- 2.5 The Committee will meet in accordance with a schedule of ordinary meetings, although meetings may be cancelled due to lack of business, or additional meetings may be arranged as necessary, in consultation with the Chairman of the Committee.

Delegation of Functions

- 2.6 The majority of the Committee's functions will be determined by officers, as set out in Part 3C of the Constitution. These delegations are subject to:
- (a) any such determination being consistent with the Development Plan and adopted District and County Planning Policies; and
 - (b) statutory and customary consultations being carried out.

Procedure at meetings

- 2.7 Procedure at meetings shall be in accordance with the Council Procedure Rules, except as provided in 2.8 below.

- 2.8 The Committee shall agree a scheme of public speaking arrangements.
- 2.9 The Committee shall have authority to depart from the arrangements in 2.8 above and determine specific arrangements for public speaking on certain applications, as it sees fit.

3.0 Licensing Committee

Remit

- 3.1 The Licensing Committee (in this Section 3 referred to as “the Committee”) may undertake or sub-delegate the council’s regulatory functions relating to licensing and registration including:
- (a) the Licensing Act 2003;
 - (b) the Gambling Act 2005;
 - (c) the Local Government (Miscellaneous Provisions) Act 1976 (as it relates to taxi licensing);
 - (d) health and safety at work (for non-council officers);
 - (e) food premises;
 - (f) scrap metal; and
 - (g) Local Choice Functions (as specified in Part 3A)
- unless the authority to determine the matter has been delegated to another committee or an individual officer.
- 3.2 The Committee may authorise a prosecution for any offence within the scope of its delegation.
- 3.3 Unless otherwise delegated, the Committee will hear licensing and registration appeals which the council is required to determine. The Committee will not take the place of any other appeals or complaints procedures nor will it provide a general appeal mechanism for any decision of the council.

Membership and meeting arrangements

- 3.4 The Committee shall consist of 12 Members (and up to six substitutes). It shall be appointed annually by the Council and shall be politically balanced.
- 3.5 Members appointed to the Committee will:
- (a) be able to provide a sufficient, competent¹ pool capable of carrying out the Committee's programme of work and anticipated number of sub-committee hearings for the forthcoming year;
 - (b) make themselves available to participate in the work of the Licensing Authority; and
 - (c) be required to undertake mandatory training on the functions and responsibilities of the Committee and its sub-committees.
- 3.6 The Chairman will:
- (a) be elected with full understanding of his or her procedural responsibilities, in accordance with the principles set out in paragraph 5.2 of Chapter 5 of the Constitution;
 - (b) be responsible for Member-to-Member engagement, in particular between the Committee and the respective Executive Member; and
 - (c) lead on other Member-related duties including the appointment of Members of the Committee and non-voting co-optees to task and finish groups.
- 3.7 With the agreement of the Chairman (or Vice-Chairman in the absence of the Chairman) and relevant Executive Member, additional meetings of the Committee may also be called if necessary. Sub-committee meetings will be scheduled as and when required.

¹ Competent is defined as having the necessary ability, knowledge and skills required to carry out the work of the Committee and its Sub-Committees. Members and Substitutes of the Committee will be declared 'competent' following successful achievement of the required training set out in the council's mandatory training package.

Delegation of functions

- 3.8 The Committee's functions will be determined in line with Tables A, B and C of this part of the Constitution. The Committee or a sub-committee will consider:
- (a) matters which the council's policies dictate the Committee's involvement;
 - (b) appeals being made against an officer's decision; and
 - (c) matters when an officer to whom a decision has been delegated chooses to put the matter before the Committee.
- 3.9 A sub-committee will consist of any three Members drawn from the full membership of the Committee and appointed for each occasion when it is needed. All Members of the Committee should be given equal opportunities to sit on sub-committees following successful completion of the relevant training.
- 3.10 Applications made in respect of the Licensing Act 2003 will be brought before the Committee or a sub-committee in accordance with any regulations published under the act, the guidance issued under section 182 of the act and summarised in Table A below.
- 3.11 Applications made in respect of the Gambling Act 2005 will be brought before the Committee or a sub-committee in accordance with the Scheme of Delegation summarised in Table B below.
- 3.12 Applications made in respect of sex establishments will be brought before the Committee or a sub-committee in accordance with the Schedule of Delegation summarised in Table C attached.
- 3.13 Taxi licensing-related matters reserved for the Licensing Committee, or a sub-committee of that Committee, in the council's Licensing Points Record Scheme will be brought before the Committee or a sub-committee. All other taxi-licensing matters have been delegated to the Head of Housing and Health, acting in consultation with the Chairman of the Licensing Committee.

Procedure at meetings

- 3.14 Meetings of the Committee will be conducted in accordance with the Council Procedure Rules, except when the Committee sits as a hearing, in which case the Hearing Procedure Rules (see Appendix A) will apply.

TABLE A**Licensing Act 2003: Delegation of Functions**

The Licensing Authority has adopted the following level of delegation of functions in accordance with the general guidance issued by the Government.

Matter to be dealt with	Delegated to Licensing Sub Committee	Delegated to Officers
<ul style="list-style-type: none">• Application for personal licence with unspent convictions• Application to review premises licence/club premises certificate• Decision to object when local authority is a consultee and not the lead authority• Determination of a Hertfordshire Constabulary representation to a temporary event notice	All cases	
<ul style="list-style-type: none">• Application for personal licence• Application for premises licence/club premises certificate• Application for provisional Statement• Application to vary premises licence/club premises certificate• Application to vary designated premises supervisor• Application for transfer of premises licence• Applications for Interim Authorities• Determination of application for licence, or variation of licence, in respect of community premises: supervision of alcohol sales	If a relevant representation made and not withdrawn	<ul style="list-style-type: none">• If no relevant representation made or• If representation made and withdrawn
<ul style="list-style-type: none">• Request to be removed as designated premises supervisor• Decision on whether a complaint is irrelevant, frivolous or vexatious• Determination of application for minor variation• Determination of relevance of representation• Exercise of Responsible Authority Functions of applications and notices submitted to the licensing authority under the Licensing Act 2003 (as amended by the Police and Social Responsibility Act 2011) in accordance with the regulations		All cases

TABLE B**Gambling Act 2005: Delegation of Functions**

GAMBLING ACT 2005 Summary of permitted licensing authority delegations			
Matter to be dealt with	Delegated to the Licensing Committee	Delegated to the Sub Committee	Delegated to Officers
Approval to recommend to Council: <ul style="list-style-type: none"> the Statement of Licensing Policy (including substantive amendments) policy not to permit casinos 	All cases		
<ul style="list-style-type: none"> Cancellation of club gaming / club machine permits Review of a premises licence Decision to give a counter notice to a temporary use notice 		All cases	
<ul style="list-style-type: none"> Application for premises licences Application for a variation to a licence Application for transfer of a licence Application for a provisional statement Application for club gaming/club machine permits 		If a relevant representation made and not withdrawn	<ul style="list-style-type: none"> If no relevant representation made <i>or</i> If representation made and withdrawn
<ul style="list-style-type: none"> Fee Setting (when appropriate) Applications for other permits Cancellation of licensed premises gaming machine permits Consideration of temporary use notice 			All cases

Sex Establishments: Schedule of Delegated Authority

Matter to be dealt with	Delegated to
Grant (First or New) of an application for any type of Sex Establishment Licence	The sub-committee*: <ul style="list-style-type: none"> • if a relevant objection received and not withdrawn and/or • if officers have concerns in respect of the application or characteristics of the locality Officers in all other cases
<ul style="list-style-type: none"> • Refusal of an application for <i>the grant, renewal or transfer</i> of any type of Sex Establishment Licence on the grounds that: <ul style="list-style-type: none"> • the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason • if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewed or transfer of such a licence if he made the application himself • Refusal of an Application for <i>the grant or renewal</i> of any type of Sex Establishment Licence on the grounds that: <ul style="list-style-type: none"> • the number of sex establishments, or sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality • the grant or renewal of the licence would be inappropriate, having regard to the character of the relevant locality; or to the use to which any premises in the vicinity are put; or to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made • Refusal of an Application for <i>the variation</i> of the terms, conditions or restrictions on / or subject to which the licence is held for any type of Sex Establishment Licence 	The sub-committee* in all cases
* <i>Matters ordinarily delegated to a sub-committee may be referred to the Licensing Committee at the discretion of the Head of Housing and Health after consultation with the Chairman and/or Vice-Chairman of the Licensing Committee</i>	

Matter to be dealt with	Delegated to
<ul style="list-style-type: none"> • Decision on whether an objection is frivolous or vexatious • Decision on whether an objection is relevant • Refusal of an Application for <i>the grant</i> of any type of Sex Establishment Licence on the grounds that the Applicant is: <ul style="list-style-type: none"> • under the age of 18 • for the time being disqualified from holding a licence following revocation of such a licence • a person, other than a body corporate, who is not resident in an EEA state or was not so resident throughout the period of 6 months immediately preceding the date when the application was made • a body corporate which is not incorporated in an EEA state • a person who had, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is 	Officers in all cases

**Although matters will normally be referred to a sub-committee for determination, they may be referred to the full Committee at the discretion of the Head of Housing and Health, after consultation with the Chairman and/or Vice-Chairman*

Procedure for Hearings of Licensing Matters

Delegated authority is given to the Licensing Committee (referred to as ‘the Committee’ in this Appendix A) to amend its procedures from time to time to comply with legislative requirements and in the interests of fairness and efficiency.

Licensing Act 2003 Hearing Regulations - Hearing Procedure

1. Introduction

1.1 The Licensing Committee or a sub-committee of the Licensing Committee sitting as a Hearing Panel acts as a quasi-judicial body. This means that it must follow the rules of natural justice by ensuring that:

- applicants and licensees know in advance and in reasonable detail anything that is claimed or alleged against them;
- all parties are given a proper opportunity to present their views;
- only relevant matters are considered; and
- the decision taken is reasonable.

1.2 A Hearing Panel will also have regard to:

- the Human Rights Act 1998;
- Guidance issued under Section 182 of the Licensing Act 2003 (hereinafter called the “2003 Act” in this Appendix A); and
- the council’s Statement of Licensing Policy under the 2003 Act.

1.3 Where a Hearing Panel chooses to depart from the guidance and/or the council’s Statement of Licensing Policy, it must give its reasons for doing so.

2. Definitions

2.1 In this document the following definitions apply:

- “applicant/licensee” means the person who has made an application for a licence under the 2003 Act or a person who has served notice of a temporary event in accordance with the 2003 Act or a person who is the holder of a licence under the 2003 Act;

- “representation” means a submission by a responsible authority or interested party under the 2003 Act, whether made in response to a consultation, by application for review or served in the form of a notice;
- “party to a hearing” means a person to whom notice of the hearing has been given in accordance with column 4 of Schedule 1 attached or who is otherwise entitled to speak at a hearing;
- “member of the Licensing Authority” means a Member sitting as a member of the Licensing Sub- Committee (hereinafter called a Hearing Panel), or an Officer who has been appointed by the council as a proper officer of the Licensing Authority, to carry out the following functions:
 - questions of law;
 - questions of mixed law and fact;
 - matters of practice and procedure;
 - the range of options available to the Hearing Panel;
 - any relevant decisions of the courts;
 - relevant national guidance or local policy;
 - other issues relevant to the matter before the Hearing Panel;
 - the appropriate decision making structure to be applied in any case;
 - assistance on the formulation of reasons and recording decisions;
 - the questioning of any party to a hearing; or
 - assistance to any party to clarify evidence and issues
- to provide any advice that Members require to fulfil their functions whether or not it is asked for on:
- “discussion” means examination by argument and debate
- “cross examination” means the examination of a party or witness with a view to querying or questioning his or her evidence.

3. Composition of licensing hearing panels

- 3.1 The Licensing Hearing Panel shall consist of three Members. Members of the Panel shall neither represent nor have a connection with the

appellant, complainant, the ward in which the appellant or complainant resides or the ward in which any premises concerned are located nor themselves live within the vicinity of any premises under consideration.

Hearings will be held in accordance with Schedule 1 below which sets out:

Column 1	Provision under a which a hearing may be held
Column 2	The period of time within which the hearing must take place
Column 3	The period of notice that must be given about the hearing
Column 4	The persons to whom notice of the hearing will be given
Column 5	The documents that will accompany the notice of the hearing (if any)
Column 6	The period of time within which a party to a hearing must confirm whether or not they intend to appear

4. Notice of Hearing

4.1 A notice of hearing shall be accompanied by the following:

- the rights of a party to a hearing (see paragraph 5 below);
- the consequences of non-attendance;
- the procedure to be followed at the hearing;
- any particular points on which the Licensing Authority will want clarification at the hearing; and
- any other documents in accordance with Column 5 of Schedule 1.

5. Rights of a Party to a Hearing

5.1 A party to a hearing:

- may be assisted or represented, whether or not that person is legally qualified;
- is entitled to give further information in support of his, her or their application or representation where the Licensing Authority has given notice that clarification on certain points is required;
- may question any other party (including the applicant) if given permission to do so by the Licensing Authority;
- may address the Licensing Authority;
- must be aware that, in the event of non-attendance, the hearing may proceed in his, her or their absence. However, if a party has indicated that they intend to attend the hearing but fail to do so, the Licensing Authority may, where it is in the public interest, adjourn the hearing to a specified date (but see paragraph 6 below). Alternatively, the hearing may be held in that party's absence (in

- which case the Licensing Authority will consider the application, representation or notice made by the absent party); and
- will be advised of the procedure to be followed (see Schedule 2 below).

5.2 The following apply:

- a party to a hearing must confine his, her or their submission to the information given in his, her or their application or representation unless they are asked otherwise by the Licensing Authority;
- parties to a hearing are advised to arrive not less than 15 minutes before the hearing commences. Where a party who has confirmed that they intend to appear at a hearing is unable to do so or is unavoidably delayed they must contact the Licensing Authority to explain the reason for his, her or their absence;
- each party to a hearing will be allowed an equal maximum period of time to exercise the above rights;
- the maximum period to be allowed will be determined at the commencement of each hearing; and
- where a number of interested parties attend a hearing, all of whom wish to make the same or similar points, they will be invited to appoint a spokesperson. Other interested parties will then be asked to add anything that they consider his, her or their spokesperson has omitted. It is not necessary for each interested party to repeat the same points and the Chairman of the hearing is expected to be firm on this point.

6. Action required by party to a hearing following receipt of notice of hearing

6.1 A party to a hearing is required to confirm to the Licensing Authority within the period set out in Column 6 of Schedule 1 below:

- whether or not they intend to attend or be represented;
- whether they consider the hearing unnecessary; and
- any request, in writing, for permission for any other person to attend (as a witness). Any such request must include the person's name and brief description of the point(s) that person may be able make in order to assist the Licensing Authority at the hearing. Any such request will be considered at the beginning of the hearing but such permission shall not be unreasonably withheld.

6.2 The following apply:

- any such request will be considered at the commencement of the hearing; and
- the submission of the witness must relate to the points contained in the representation made by the party on whose behalf they are appearing. Any other comment(s) must and will be disregarded.

7. Dispensing with a hearing

- 7.1 The Licensing Authority may dispense with a hearing if all the parties to it (other than the Licensing Authority itself) have given notice in writing that it is unnecessary. If all parties give such notice, the Licensing Authority, if it agrees, must give notice to the parties that the hearing has been dispensed with and determine the application within 10 working days based on the representations that have been made in writing.

8. Withdrawal of representation

- 8.1 A party to a hearing may withdraw any representation by giving notice no later than 24 hours prior to the commencement of the hearing or orally at the hearing itself.
- 8.2 If all representations are withdrawn the application will be approved as submitted.

9. Adjournments and Extensions of time

- 9.1 The Licensing Authority may:
- extend any time limit relating to a hearing set out in Schedule 1 if felt in the public interest, provided that any reviews can still be determined within the prescribed time limits and provided that during the transition period the application is not consequently deemed grant or deemed refused;
 - adjourn or hold a hearing on additional specified dates where it considers this to be necessary; or
 - adjourn to enable a site meeting to be held.
- 9.2 Notice will be given to all the parties to the hearing stating the period of the extension or the date of the re-scheduled hearing and the reasons for it.
- 9.3 During the transition period any adjournment or extension of time will not re-schedule the hearing later than the following:

Type of Application	Latest time for hearing
<ul style="list-style-type: none"> • Conversion of premises licence or club premises certificate • Variation of new premises licence or new club premises certificate 	Not later than 2 months beginning on the day the application was received by the Licensing Authority
Application for a personal licence by the holder of a Justices' Licence	Not later than 3 months beginning on the day the application was received by the Licensing Authority

10. Hearings in Public

- 10.1 Hearings will take place in public, unless the Licensing Authority excludes the public from any part of a hearing on the grounds that the public interest in doing so outweighs the public interest in the hearing (or that part) taking place in public.
- 10.2 When the public are excluded from a hearing (or part), any party to the hearing, his, her or their representative and any person called by them as a witness may also be excluded.
- 10.3 The Chairman may require any person attending the hearing who is behaving in a disruptive manner to leave and may determine whether and with what conditions if any they may return.

11. Representations and Supporting Documentation

- 11.1 Members of the Licensing Authority may ask any question of any party or other person attending the hearing.
- 11.2 In considering any representation made by a party, the Licensing Authority may take into account supporting documentary or other information produced by that party either before the hearing or, with the consent of all the other parties, at the hearing itself.
- 11.3 If material is to be introduced at the hearing, the party must prepare at least ten copies for distribution to the members of the Licensing Authority and the other parties to the hearing if its submission is permitted.
- 11.4 The Licensing Authority will disregard any information given at a hearing that is not relevant to the matter under consideration.

12. Procedure at a Hearing

The hearing will proceed in the following order.

- 12.1 The Chairman will elicit any declarations of interests.
- 12.2 The Chairman will introduce members of the Hearing Panel.
- 12.3 The Chairman will ask those present to introduce themselves in the following order:
 - applicant/licensee and any person representing or assisting them. (Confirmation also should be given that copies of the relevant representations to be considered at the Hearing have been received);
 - the Officer of the Licensing Authority, the Democratic services Officer and the Legal Advisor to the Hearing Panel;
 - responsible authorities that have made a relevant representation; and
 - interested parties who have made a relevant representation. Interested parties should confirm whether a spokesperson has been nominated and, if so identify them.
- 12.4 The Chairman will ask all parties to the Hearing whether they wish to withdraw their application or representation.
- 12.5 The Chairman will ask the officer of the Licensing Authority to report:
 - any requests from a party to the Hearing for permission for a witness to appear in support of his, her or their representation. Any such requests will be determined by the Hearing Panel; and
 - any documentary or other information that a party to the Hearing wishes to present. If there is any such material, the Chairman will ask all the other parties to the Hearing whether they consent to it being presented. If they agree, the material will be distributed. If not, this material may not be distributed unless the Chairman wishes it to be.

- 12.6 The Chairman will invite the applicant/licensee or his, her or their representative to estimate the time required to present his, her or their case and ask questions of other parties to the Hearing. The Chairman will then ask the other parties to the Hearing whether they will require a longer period to present their representation and question the applicant. The Hearing Panel will determine the maximum period of time allowed for each party to put his, her or their case. This decision will be final.
- 12.7 The Chairman will ask the Officer of the Licensing Authority to summarise the matter under consideration.
- 12.8 The Members of the Hearing Panel, the applicant, and those making representations may ask questions of the Officer of the Licensing Authority.
- 12.9 Starting with the applicant or licensee, each party will exercise his, her or their rights within the identified maximum time, as follows:
- each party to present his, her or their case, including responding to any points of which the Licensing Authority has previously given notice, and call any approved witness or witnesses in support of his, her or their case; and
 - if given permission by the Chairman, and only through the Chairman, each party may raise questions of any other party or witness/witnesses.
- 12.10 The applicant/licensee or his, her or their representative will be asked to sum up his, her or their case.

13. Determination of Applications

- 13.1 In the case of a hearing relating to:
- a counter notice following police objection to a temporary event notice; or
 - a review of premises licences following closure order;
- the Licensing Authority must make its determination at the conclusion of the hearing.

- 13.2 In the case of any other hearing, the members of the Hearing Panel may choose to determine the case at the conclusion of the hearing or after the hearing within five working days.
- 13.3 If determining the case at the hearing, it is for the members of the Hearing Panel to choose whether to retire to consider the case or discuss the case in front of all parties.
- 13.4 When determining a case, either during the hearing or after, and whether having retired or deliberating in front of the parties, the following shall apply:
- Members of the Hearing Panel will determine the case, not officers or any other parties;
 - Members of the Hearing Panel will be advised by a Legal Officer;
 - a Democratic Services Officer will be available to make relevant notes and make a written record of the Panel's decision;
 - if Members of the Hearing Panel have a question relating to the relevant legislation or the council's policies which the Legal officer is unable to address, they may seek the advice of an officer of the council's Licensing Team; and
 - if Members of the Hearing Panel wish to attach conditions to an application under consideration they may seek the views of any or all of the parties before determining the case, especially if the details of the possible condition were not discussed with parties during the hearing and/or members of the Hearing Panel do not feel they have as clear a view as possible of the proposed condition's efficacy, applicability and/or acceptability to any or all of the parties.
- 13.5 Once the case has been determined, all parties will be advised of the decision and the reasons for it, together with their right of appeal. If determined at the hearing, the Legal Advisor to the Hearing Panel will advise those present of any advice that has been provided during the determination. If determined after the hearing, the notification of the

outcome shall make reference to any such legal advice provided.

- 13.6 A determination may authorise an officer of the Licensing Authority to approve an application subject to conditions to be applied in accordance with the decision made at the hearing.
- 13.7 Whether determined at the hearing or after, the applicant shall be informed of the decision and rights of appeal in writing within five working days of the hearing.

14. Recording Proceedings

- 14.1 A written record of proceedings will be taken and kept for six years from the date of the determination or the disposal of any subsequent appeal, whichever is the later.

15. Irregularities

- 15.1 Any irregularity resulting from failure to comply with the Licensing Act 2003 (Hearings) Regulations 2005 (or any subsequent Regulations) will not of itself render the proceedings void but, if the Licensing Authority considers that any person has been prejudiced as a result of any irregularity, it will take steps to rectify this before reaching its determination.
- 15.2 Clerical mistakes in any document recording a determination, or errors in documentation arising from an accidental slip or omission, may be corrected by the Licensing Authority.

Schedule 1

Provision under which hearing may be held <i>References are to sections of the Licensing Act 2003</i>	Period of time within which hearing must be take place	Period of notice that to be given about the hearing	Persons to whom notice of hearing will be given	Documents to accompany notice of hearing (if any)	The period of time within which a party to the hearing must confirm whether or not they intend to appear
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Determination of application for premises licence <i>Section 18(3)(a)</i> Determination of application for a provisional statement – premises to be constructed, extended or altered	20 working days commencing day after period of consultation ends	Ten working days	The person who has made the application Persons who have made relevant representations	The relevant representations that have been made	Five working days before day on which hearing is held
Determination of application to vary premises licence <i>Section 35(3)(a)</i>	20 working days commencing day after period of consultation ends	Ten working days	Holder of premises licence who made application Persons who have made relevant representations	The relevant representations that have been made	Five working days before day on which hearing is held
Determination of application to vary a premises licence to specify individual as the premises supervisor <i>Section 39(3)(a)</i>	20 working days commencing day after period within which police may object	Ten working days	Holder of premises licence who made application Police The DPS	The notice given by the Police	Five working days before day on which hearing is held

Provision under which hearing may be held <i>References are to sections of the Licensing Act 2003</i>	Period of time within which hearing must be take place	Period of notice that to be given about the hearing	Persons to whom notice of hearing will be given	Documents to accompany notice of hearing (if any)	The period of time within which a party to the hearing must confirm whether or not they intend to appear
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Determination of application for transfer of premises licence <i>Section 44(5)(a)</i>	Five working days commencing day after period within which police may object	Ten working days	The person who has made the application Police The holder of the premises licences	The notice given by the Police	Five working days before day on which hearing is held
Cancellation of interim authority notice on death etc of licence holder following police objections <i>Section 48(3)(a)</i>	Five working days commencing day after period within which police may object	Two working days	The person who has given notice Police	The notice given by the Police	One working day before day on which hearing is held
Determination of application for review of premises licence <i>Section 52(2)</i>	20 working days commencing day after period of consultation ends	Ten working days	The holder of the premises licence Persons who have made relevant representations Persons who asked for the review	The relevant representations that have been made	Five working days before day on which hearing is held
Determination of application for club premises certificate <i>Section 72(3)(a)</i> Determination of application to vary club premises certificate <i>Section 85(3)(a)</i>	20 working days commencing day after period of consultation ends	Ten working days	The club that has made the application Persons who have made relevant representations	The relevant representations that have been made	Five working days before day on which hearing is held

Provision under which hearing may be held <i>References are to sections of the Licensing Act 2003</i>	Period of time within which hearing must be take place	Period of notice that to be given about the hearing	Persons to whom notice of hearing will be given	Documents to accompany notice of hearing (if any)	The period of time within which a party to the hearing must confirm whether or not they intend to appear
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Determination of application for review of club premises certificate <i>Section 88(2)</i>	20 working days commencing day after period of consultation ends	Ten working days	The club which holds the club premises certificate Persons who have made relevant representations Persons who asked for the review	The relevant representations that have been made	Five working days before day on which hearing is held
Counter notice following police objection to Temporary Event Notice <i>Section 105(2)(a)</i>	Seven days commencing day after period within which police may object	Two working days	The premises user Police		One working day before day on which hearing is held
Determination of application for grant of a personal licence <i>Section 120(7)(a)</i>	20 working days commencing day after period within which police may object	Ten working days	The person who has made the application Police	The notice given by the Police	Five working days before day on which hearing is held
Determination of application for renewal of a personal licence <i>Section 121(6)(a)</i>	20 working days commencing day after period within which police may object	Ten working days	The person who has made the application Police	The notice given by the Police	Five working days before day on which hearing is held
Convictions coming to light after grant or renewal of personal licence <i>Section 124(4)(a)</i>	20 working days commencing day after period within which police may object	Ten working days	The holder of the personal licence Police	The notice given by the Police	Five working days before day on which hearing is held

Provision under which hearing may be held <i>References are to sections of the Licensing Act 2003</i>	Period of time within which hearing must be take place	Period of notice that to be given about the hearing	Persons to whom notice of hearing will be given	Documents to accompany notice of hearing (if any)	The period of time within which a party to the hearing must confirm whether or not they intend to appear
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Review of premises licences following closure order <i>Section 167(5)(a)</i>	Ten working days commencing day after notice given	Five working days	The holder of the premises licence Persons who have made relevant representations	The relevant representations that have been made	Two working days before day on which hearing is held
Determination of application for conversion of existing licence <i>Paragraph 4(3)(a) of Schedule 8</i>	Ten working days commencing day after Police give notice	Five working days	The person who has made the application Police		Two working days before day on which hearing is held
Determination of application for conversion of existing club certificate <i>Paragraph 16(3)(a) of Schedule 8</i>	Ten working days commencing day after Police give notice	Five working days	The club that made the application Police		Two working days before day on which hearing is held
Determination of application by holder of a justices' licence for grant of a personal licence <i>Paragraph 26(3)(a) of Schedule 8</i>	Ten working days commencing day after Police give notice	Five working days	The person who has made the application Police		Two working days before day on which hearing is held

4.0 Other Committees

Overview and Scrutiny Committee Performance, Audit and Governance Scrutiny Committee

Details of the functions and procedures of these committees are set out in Part 2, Chapter 7 of this constitution and in the Overview and Scrutiny Procedure Rules.

5.0 Human Resources Committee

Remit

- 5.1 The functions of the Human Resources (HR) Committee (herein referred to as 'the Committee') relate to all aspects of the council's role as an employer. This includes the monitoring and strategic overview of HR activity in the areas detailed below.

Membership and Meeting Arrangements

- 5.2 The Committee, consisting of seven Members (and up to three substitutes) will be appointed annually by the Council and will be politically balanced.
- 5.3 The Committee will meet in accordance with a schedule of ordinary meetings, although meetings may be cancelled due to lack of business, or additional meetings may be arranged as necessary, in consultation with the Chairman of the Committee.

Delegation of Functions

- 5.4 The majority of the Committee's functions will be determined by officers, as set out in Part 3C of this Constitution. The Committee's terms of reference are matters relating to:
- (a) Recruitment and retention;

- (b) Terms and conditions and benefits offered to officers;
- (c) Valuing diversity, with particular reference to achieving a workforce that is representative of our community and achieving a higher level of the equality standard;
- (d) Officer relations issues, including disputes;
- (e) HR services, including definition of processes and implementation of timetables;
- (f) Learning and development, with particular reference to developing officers to ensure that we have the relevant skills to achieve our corporate priorities ~~and also ensure necessary actions are taken to retain IIP status~~;
- (g) Absence management;
- (h) The means by which officers' performance should be managed, using performance development reviews (PDRs) and competencies and/or other processes as available;
- (i) The approval and implementation of new and revised HR policies as developed;
- (j) Consideration of current, future and potential initiatives and developments in HR thinking and best practice;
- (k) Overseeing the implementation and co-ordination of the member training programme;
- (l) Acting as the council's steering group to advise it in relation to the discharge of its responsibilities for health and safety by:
 - (i) providing a focus for the consideration of health and safety matters;

- (ii) monitoring the steps taken within the council to ensure the health and safety of its stakeholders; and
- (iii) advising the authority of the steps that may be required to comply with regulations and codes of practice.
- (m) Head of Paid Service dismissal, grading, grievance and redundancy and early retirement pay (in line with national conditions and local procedures); and
- (n) All other matters relating to the employment of officers within the council, which are in line with the council's procedures and delegated authorities.

Delegated Authority

5.5 The Committee has full delegated authority to act within the remit of its functions. The only limits to this are:

- (a) Decisions which would be contrary to the Constitution; and
- (b) Decisions which would be contrary to current legislation.

Procedure at meetings

5.6 Meetings of the Committee will be conducted in accordance with the Council Procedure Rules.

6.0 Chief Officer Recruitment Committee

Remit

6.1 The appointment of Chief Officers.

Membership and Meeting Arrangements

6.2 The Chief Office Recruitment Committee (herein referred to as 'the Committee' within this section 6) will be appointed annually by the Council and will be politically balanced. It

will consist of five Members and include at least one member of the Executive.

- 6.3 The Committee will meet as and when required.

Delegation of Functions

- 6.4 The Committee has delegated authority to, on behalf of the Council, select and interview candidates and make recommendations on Chief Officer appointments (subject to rules requiring Council to confirm the statutory functions (monitoring and chief finance officer(s))).

Procedure at meetings

- 6.5 Meetings of the Committee will be conducted in accordance with the Council Procedure Rules.

7.0 Local Joint Panel

Remit

- 7.1 The Local Joint Panel is the joint union and employer negotiation and consultative body.

Membership and Meeting Arrangements

- 7.2 The Local Joint Panel will consist of four Members of the Council ('the Employer') to be appointed annually by the Council and four representatives of officers drawn from the constituent trade union (currently UNISON).
- 7.3 Named substitute members may be appointed by either side, to attend meetings of the Local Joint Panel in the absence of a member thereof, provided prior notice is given to the Head of Legal and Democratic Services.
- 7.4 In the event of any failure to appoint/elect the number of representatives provided for by this Constitution, such failure to appoint/elect shall not invalidate the decisions of the Panel.

- 7.5 If a member of the Local Joint Panel ceases to be a Member or officer of the council he or she shall cease to be a member of the Local Joint Panel; any vacancy shall be filled by the council, the constituent trade union or the combination of the two.
- 7.6 A Chairman and a Vice-Chairman shall be appointed by the Local Joint Panel at its first meeting in each year. If the Chairman appointed is a Member of the Council, the Vice-Chairman shall be appointed from the officer side, and vice versa. The appointment of the Chairman of the Panel shall be rotated on an annual basis between the Employer's side and the Employees' side. The Chairman of a meeting may vote as a Panel member but shall not have a casting vote.
- 7.7 The Head of Human Resources and Organisational Development or a senior Human Resources Officer shall act as secretary to the Employer's Side.
- 7.8 The Local Joint Panel shall meet during office hours as and when required, but not less than quarterly. The Chairman or Vice-Chairman may direct the secretary to call a meeting at any time. A meeting shall be called within seven days of the receipt of a requisition signed by at least two members of either side. The matters to be discussed at any meeting of the Local Joint Panel shall be stated upon the notice summoning the meeting.
- 7.9 Agendas shall be prepared by the Democratic Services Team, after discussion with the Head of HR and OD (or a senior Human Resources Officer), the Chairman and the Vice-Chairman, and shall be circulated at least five clear days before the meeting.
- 7.10 Either side will have the right to co-opt, in a consultative capacity, representatives of particular interests affected by a question under discussion which are not directly represented on the Panel but only for the period during which the relevant question is under consideration.
- 7.11 Either side shall arrange for the attendance in an advisory capacity of an officer or trade union official at any Panel

meeting where it would be helpful to the business under discussion.

- 7.12 Attendances at 7.10 and 7.11 above shall be notified in advance to the Head of Human Resources and Organisational Development in his or her capacity as secretary to the Employer's Side.
- 7.13 No recommendation shall be regarded as carried unless it has been approved by a majority of the members present on each side of the Local Joint Panel, and in the event of either the Local Joint Panel being unable to arrive at an agreement or the relevant council body disagreeing with the Panel's recommendations, then the matter in dispute should be referred to the Executive by way of mediation.
- 7.14 The proceedings of any meeting of the Local Joint Panel shall be recorded and reported at the appropriate Council meeting, but before submission, the Minutes shall be approved by the Panel Chairman and Vice-Chairman.

Delegation of Functions

- 7.15 The functions of the Local Joint Panel shall be:
- (a) To establish regular methods of consultation and negotiation between the council and its officers on matters of mutual concern with the intent of maintaining and developing an efficient service. This process will aim to address differences should they arise with a genuine commitment to seek consensus and enter into agreements, as appropriate. No question of any individual's discipline, promotion, efficiency or conditions of employment shall be within the scope of the Joint Panel;
 - (b) To consider any relevant matter referred to it by a committee of the council, or by any of the officer organisations;
 - (c) To make recommendations to Human Resources Committee and/or a suitable committee of the council as to the application of the terms and conditions of

service and the education and training of officers of the council;

- (d) To discharge such other functions specifically referred to the Local Joint Panel with the exception of staffing issues;
- (e) To consider matters relating to Health and Safety at Work referred to the Local Joint Panel by an Employee Association or by a committee of the council; and
- (f) the trade union(s) recognised by the council shall represent all council officers. This will include raising issues on behalf of non-trade union members, should they be requested.

Procedure at meetings

- 7.16 Procedure at meetings shall be in accordance with the Council Procedure Rules, except as provided for in 7.17 below.
- 7.17 The quorum of the Local Joint Panel shall be two representatives of each side.

8.0 District Planning Executive Panel

Remit

- 8.1 To make recommendations to Council, via the Executive, on issues associated with the East Herts District Plan.

Membership and Meeting Arrangements

- 8.2 The District Planning Executive Panel (herein referred to as 'the Panel' in this section 8) will be appointed annually by the Executive and membership will be drawn from the Executive only.
- 8.3 The Panel will meet as and when required.

Delegation of Functions

- 8.4 None – all matters to be subject to recommendations to Council via the Executive.

Procedure at meetings

- 8.5 Meetings of the Panel will be conducted in accordance with the Executive Procedure Rules.

Joint Committee Arrangements

The council has entered into joint arrangements with neighbouring authorities for the joint provision of various services that cut across local government boundaries. These arrangements have been individually agreed with the relevant neighbouring councils as follows:

9.0 East Herts/North Herts/Stevenage CCTV Joint Committee Executive Board

Purpose of the CCTV Executive Board

- 9.1 To discuss and agree the strategic and policy issues relating to the jointly owned and operated CCTV Control and Monitoring service.
- 9.2 To deal with all matters defined under the CCTV 'Code of Practice' as the responsibility of the CCTV Executive Board.
- 9.3 To consider and approve expansion or contraction proposals for the CCTV Control Room, Network, and monitoring service.
- 9.4 To consider and agree changes to the CCTV 'Code of Practice'.
- 9.5 To ensure the Independent inspection regime is set up and maintained.
- 9.6 To receive and approve the Independent Inspectors annual report.

- 9.7 To consider complaints regarding any breaches of the CCTV 'Code of Practice' and recommendations for preventing breaches. To recommend disciplinary action where appropriate.

Constitution of the CCTV Executive Board

- 9.8 The CCTV Executive Board is constituted as a joint committee of each of the councils' Executive Committees, comprising of three elected members of each council.
- 9.9 Meetings shall be held at least one per annum or when there is sufficient business.
- 9.10 To make recommendations on any of the above to the Officer Management Board.

Quorum

- 9.11 A Quorum shall be three members with at least one from each of the partner authorities.

Chairman

- 9.12 The Chairman shall be a member of the Authority hosting the meeting.

Venue

- 9.13 The meetings shall be held alternatively at the offices of the partner authorities.

Procedural Matters

- 9.14 The meetings shall follow the normal Standing Orders of the hosting Authority.

10 East Herts Council and Stevenage Council Joint Revenues and Benefits Committee

Purpose

- 10.1 This is a joint committee of Stevenage Borough and East Hertfordshire District, under the provisions of section 10 of the Local Government Act 1972 and all regulations made thereunder.
- 10.2 The terms of reference of the committee are as follows:
- (a) To approve the annual service plan for the Shared Revenues and Benefits Service;
 - (b) To receive explanations of variances in service performance against the agreed service plan;
 - (c) To approve the budget of the shared service and where so delegated determine requested virements within that budget;
 - (d) To give initial consideration to future development of the shared service and any changes in legislation that may affect service delivery and make recommendations thereon to the Executive or officers; and
 - (e) Where it is considered appropriate, report to the Executives of the constituent councils.
- 10.3 The Joint Committee shall consist of three named elected Members from each council with full voting rights. The Members appointed shall serve on the committee until successors in office are appointed.
- 10.4 The Joint Committee shall at its first meeting each year, elect one of its Members to be Chair and one of its Members to be Vice- Chair, with the chair from one Council and the Vice Chair from the other. These positions shall be rotated annually. The Chair and Vice-Chair shall unless they resign or cease to be Members of the Joint Committee, continue in office until their successors have been appointed.

Quorum

- 10.5 The quorum of a meeting of the Joint Committee will be three elected members, with at least one from each council. If at any part during a meeting, a quorum is not present, the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair.

Voting

- 10.6 Matters will be decided by the Joint Committee by a simple majority of those Members voting and present in the room at the time the question was put. The Chair shall take the votes by a show of hands. If there are equal votes for and against, the Chair may exercise a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote, save that if no second or casting vote is made, the proposal will automatically fail.

Administration

- 10.7 The Access to Information Rules (as set out in the Constitutions of the constituent councils) to apply to all meetings.
- 10.8 Each constituent council acts as host to the meetings in alternate years, with the relevant host council convening those meetings, distributing the agenda, clerking the meetings and producing the minutes.
- 10.9 Meetings to be held in January (service planning for coming year) and October for budgets and mid-year service plan review. Constituent councils are to liaise to confirm mutually suitable times/dates.

Review

- 10.10 The constituent councils will review the Joint Committee's terms of reference annually.

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Responsibility for Functions - Section C

OFFICER DELEGATION

1. Introduction

The Council has adopted a Corporate Strategic Plan to improve the health and wellbeing of our communities; enhance the quality of people's lives and enable a flourishing local economy. To enable that vision, managerial and operational decisions are taken, within a framework of democratic accountability, at the most appropriate level ~~which is usually the closest point of contact to the citizen.~~ The scheme is to be interpreted widely to give effect to this overall purpose by empowering staff to carry out their functions and deliver the cCouncil's services within the budget and policy framework set by the Council, and subject to the guidelines set by the Executive and the cCouncil's Leadership team.

2. Overall Limitations

- 2.1. The exercise of delegated powers is subject to the following overriding limitations.
- 2.2. Where broad functional descriptions are used, the delegations in this scheme should be taken to include powers and duties within all present and future legislation, and all powers incidental to that legislation, including the incidental powers and duties under Section 111 of the Local Government Act 1972.

3. Sub-Delegation

Any Officer with delegated powers in this scheme is also authorised to further delegate in writing all or any of the delegated functions to other officers (described by name or post) either fully or under the general supervision and control of the delegating officers. ~~Sub-delegations shall be recorded in a register kept by the Monitoring Officer.~~ Administrative functions ancillary to the exercise of delegated powers are

deemed to be carried out in the name of the officer exercising the function.

~~Delegation in the case of absence or inability to act~~

~~7.1 If the Officer/s having delegated authority under the Scheme are absent or otherwise unable to exercise their delegation, and there is no other officer to whom the authority has been sub-delegated, these provisions in this Article shall apply~~

~~The duties of the Monitoring Officer and the Chief Finance Officer can be carried out by a deputy, nominated by them, in cases of absence or illness,~~

~~The Head of Paid Service may nominate a deputy in the event of absence or illness.~~

Further Provisions

- 3.1. It shall always be open to an oOfficer not to exercise his or her delegated powers but to refer the matter to the Council, Executive, or relevant Committee (as appropriate) for decision.
- 3.2. In exercising delegated powers, oOfficers shall consult other oOfficers as appropriate and have regard to any advice given. In particular, oOfficers must have regard to any report by the Head of Paid Service or the Monitoring Officer under Sections 4 and 5 of the Local Government and Housing Act 1989 ~~or of the Chief Finance Officer under Section 114 of the Local Government and Housing Act 1988.~~
- 3.3. In exercising delegated powers, oOfficers shall consider whether the matter is controversial or significant major and if so shall as appropriate consult or inform the relevant Executive Member~~Portfolio Holder~~ and/or Ward Member(s).

3.4

~~MemberMemberDelegation in the case of absence or inability to act~~

Officers may only exercise delegated powers in accordance with:-

(a)4(a) ——— the cCouncil's Rules of Procedure contained in Part ~~xxxx~~4 of this Constitution including the Financial Procedure Rules and Contract Procedure Rules;

(b)(b)4 ——— all plans, policies, schemes or strategies approved by or on behalf of the Council;

(c)(c)4 any statutory restrictions, guidance or statutory code of practice;

(d)(d)4 the statutory and local requirements in respect of the taking and recording of Key Decisions;

(e)(e)4 the revenue and capital funding for the relevant service as approved by the Council, subject to any variations which are permitted by virtue of the cCouncil's Rules of Procedure; and

3.4.6(f)

(f) ——— the cCouncil's Equal Opportunities and other policies, procedures, standards and the Local and National Conditions of Service.

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4. Member3.4. — If the following Officer/s having delegated authority under the Scheme are absent or otherwise unable to exercise their delegation, and there is no other officer to whom the authority has been sub-delegated, these provisions shall apply:

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4. **Members Consultation**

4.1. Officers exercising delegated powers in accordance with this scheme are expected in appropriate cases to:

- (a) ~~m~~ Maintain a close liaison with the appropriate portfolio holder or in their absence the Leader or another Executive Member;
- (b) ~~i~~ In the case of temporary or project specific delegations ~~o~~ Officers will consult relevant Executive Members; ~~portfolio holders~~
- (c) ~~e~~ Ensure the Ward ~~Members~~ Councillors are consulted or advised of the exercise of delegated powers; ~~and~~
- (d) ~~e~~ Ensure that the Chief Executive, the Head of Strategic Finance and Property Services and the Head of Legal and Democratic Services are consulted and advised of any decisions as necessary; ~~and~~
- (e) ~~b~~ Before exercising any delegated power, officers must consider whether to exercise the delegated power or refer the matter to the relevant ~~M~~member or member body to decide.

5. Reservations

5.1. This scheme does not delegate to ~~o~~ Officers:-

- (a) ~~a~~ 5.1.1 (a) Any matter reserved by law to the Council, the ~~Executive~~ Cabinet ~~Executive~~, the Leader of the Council, a Committee or Sub-Committee of the Council; and
- (b) ~~a~~ 5.1.2 Any matter which is specifically excluded from delegation by the scheme or by resolution of the Council or Cabinet ~~Executive~~.

5.2. Officers may only exercise delegated powers in accordance with:-

- (a) ~~t(a) The~~ ~~c~~Council's Rules of Procedure contained in Part ~~4xx~~ of this Constitution including the Financial Procedure Rules and Contract Procedure Rules;
- (b) ~~a(b) All~~ plans, policies, schemes or strategies approved by or on behalf of the Council;
- (c) ~~a(c) Any~~ statutory restrictions, guidance or statutory code of practice;
- (d) ~~t(d) The~~ statutory and local requirements in respect of the taking and recording of Key Decisions;
- (e) ~~t(e) The~~ revenue and capital funding for the relevant service as approved by the Council, subject to any variations which are permitted by virtue of the ~~c~~Council's Rules; ~~and~~
- ~~of Procedure; and~~
- ~~I have~~
- (f) ~~t(f) The c~~ Council's Equal Opportunities and other policies, procedures, standards and the Local and National Conditions of Service.

6.

6.

6. Restrictions

6.1 Statutory restrictions

6.2 Budget and Policy Framework

6.3 Procedure Rules including Financial Limits

6.4 Policy set out by Council and Executive

7.

7. Delegation in the case of absence or inability to act

7.1 ~~If the officer/s having delegated authority under the Scheme are absent or otherwise unable to exercise their delegation, and there is no other officer to whom the authority has been sub-delegated, these provisions shall apply.~~

7.2 ~~The duties of the Monitoring Officer and the Chief Financial Officer can be carried out by a deputy, nominated by them, in cases of absence or illness.~~

7.3 ~~The Head of Paid Service may nominate a deputy in the event of absence or illness.~~

8. Permissions

8.1 Chief executive, directors, all Heads of Service and their duly authorised officers

8.1 ~~The following delegations that follow~~ apply to the ~~C~~chief ~~E~~xecutive, directors, Heads of Service or their duly authorised officers~~s~~.

~~Th~~ This scheme delegates to post holders named or described in the Areas of Responsibility section all the powers and duties relevant to those areas of responsibility that rest with the Council or Executive or which have been delegated or granted to the Council, subject to the limitations, restrictions and reservations set out above, within the delegations below and the detailed scheme of delegation. This includes all powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation including but not limited to:

8.2 Powers in relation to Staff

Take any action in accordance with the Council's agreed policies and procedures with respect to the recruitment, appointment, promotion, training, grading, discipline, determination of wages and salary scales, determination of allowances, determination and application of conditions of service, including but not limited to allocation of leave, honorariums, ill health retirements and determination of establishment except as specifically delegated to the Head of Human Resource and Organisational Development and except as detailed in the [OfficerStaff](#) Employment Procedure Rules.

8.3 Powers in relation to contracts and property

Powers in relation to contracts and property agreements to negotiate, put out to tender, bid, submit tenders, vary, terminate, dispute, extend and renew and in relation to contracts to buy and sell and in relation to the property to acquire, dispose of, let and licence except as detailed in the [cCouncil's Financial Regulations and Contract ProcedureProcurement](#) Rules in Part [4xx](#) of this Constitution.

8.4 Powers in relation to Finance

Powers to incur capital and revenue expenditure, to seek recovery of amounts owed, to exercise discretion in recovery, alter or waive repayment periods or approve exemptions in relation to repayments, agree refunds, reduce or remit payments and waive fines, [except](#) as detailed in the Financial Regulations and [Contract ProcedureProcurement](#) Rules in Part [4x](#) of this Constitution.

8.5 Powers in relation to Legal Action

Powers to authorise, appoint or nominate officers, and to investigate, prosecute, enforce, lay summons, require individuals to disclose information, serve requisitions for information, [publish](#) information, apply to a court, sign notices, issue, serve, vary, [revoke](#) and publish notices, including fixed penalty notices and serve documents, make prohibition orders, suspend or vary a prohibition order, take

emergency remedial action, carry out works in default, issue certificates, issue consents, issue licences and licence applications, issue permits, refuse vary or revoke licensing applications, issue temporary exemption notices, obtain, introduce, operate, amend extend, vary and revoke orders. Impose conditions, introduce and maintain registers, exercise powers of entry without force, apply for a warrant and in relation to land relevant to the service functions to note applications for licences, planning, consent and approvals, declarations and grants except as specifically detailed in the delegations below.

[These powers shall be taken with reference to the Head of Legal and Democratic Services where relevant.](#)

8.6 Areas of responsibility

For the purposes of the Permissions above the areas of responsibility are as follows:

Chief Executive and Director(s)	Overall responsibility for the delivery of the Council's vision through the delivery of the Corporate Strategic Plan, including cross cutting individual initiatives and projects and the management leadership and management of the organisation as a whole.
Head of Operations	Leisure Services Waste Management Parks & Open Spaces Hertford Theatre Parking Economic Development Market operations Environmental enforcement and Inspections (Pest Control)
Head of Human Resources and Organisational Development	Organisational Development Payroll Training & Development Health & Safety HR Policy HR Services Employee Relations
Head of Communications Strategy and Policy	Communications and Digital Media Customer Services Economic Development Improvement and Insight Information Web New Media Business Development Performance Strategy Policy Equalities Agenda Corporate Consultation Graduate Support
Head of Strategic Finance and	Accountancy Audit

Property	Transactional Finance Treasury Management Property & Estates Facilities Management Procurement Risk Insurance
Head of Legal and Democratic	Democratic Services Legal Electoral Services Member and Civic Support Freedom Of Information FOI Data Protection Land Charges Civic Support Scrutiny
Head of Housing and Health	Housing Community Safety Engagement and Partnerships Community Transport Public Health and Wellbeing Public Health Licensing Environmental Health Safeguarding Pest Control Animal Warden Emergency Planning Engineering and Drainage
Head of Planning and Building Control	Development Management Planning Policy Heritage and Conservation Urban Design Section 106 Agreements / Community Infrastructure Levy LevyCIL Building Control Planning Enforcement
Head of Shared	Business and Technology Shared Service

Business and Technology Services	
Head of Shared Revenues and Benefits Shared Service	Revenues and Benefits Shared Service

8.7 OFFICER SPECIFIC DELEGATIONS

Any delegation to an officer includes authority for any further delegation within the relevant Area of Responsibility, in the case of the Chief Executive or those acting as Chief Executive, this includes all Heads of Service and below. Officers shall devolve responsibility for service delivery and management to those staff who represent the nearest practicable point of delivery to the service user.

9. The Chief Executive

- 9.1 The Chief Executive has been appointed the Council's Head of Paid Service.
- 9.2 The following powers and duties are delegated to the Chief Executive. With the exception of 9.2(q).17d below, for which there are separate arrangements, if he or she is absent or otherwise unable to exercise the delegation, they may be exercised by a Director. In the case of a9.2(e).5 below, should the Chief Executive and Director(s) be absent or unable to act, the power may be exercised by a Head of Service:
- (a) To carry out the powers and duties of any of the officers in their absence or in consultation with them: (excluding the statutory functions of the Monitoring Officer and the Section 151 officer-);
- (b) To authorise a Director to act in his/her absence on any matter within his/her authority;

- (c) ~~a~~ All matters relating to staffing, employment, terms and conditions and industrial relations for the ~~c~~ Council's workforce, save those matters which have been delegated to Heads of Service above and those relating to the Head of Paid Service and Chief Officers; ~~as specified in the Staff Employment Procedure Rules.~~
- (d) ~~t~~ To determine changes within the m ~~Management structure where these involve substantial changes to responsibilities of first and second tier posts;~~
- (e) ~~w~~ Where emergency action is required, to incur expenditure in the event of a civil emergency ~~To take any action, including the incurring of expenditure;~~ where emergency action is required
- (f) ~~t~~ To exercise the functions of the Head of Paid Service under the provisions of the Local Government and Housing Act 1989;
- (g) ~~i~~ In cases of urgency take any decision which could be taken by the Council, the Executive or a Committee in consultation with the Leader, provided that any such decision shall be reported to the next meeting of the Executive, -appropriate Committee or Council unless there is a need for confidentiality, in which case the reporting of the decision may be deferred until the need for confidentiality expires;
- (h) ~~t~~ To alter the areas of responsibility of the Director(s) and Heads of Service set out in the Areas of Responsibility section of this scheme;
- (i) ~~t~~ To issue redundancy notices immediately it becomes apparent that redundancies are likely to arise, subject to any policy constraints which may be applied;

~~In consultation with the Executive Member for Finance and Support Services, to approve schemes up to £100,000 within the Capital Contingency Budget.~~

(j) ~~t~~To rearrange dates and times of meetings, previously approved, following consultation with the Leader of the Council; such action being necessary in the interests of the efficient running of the Council;₁

(k) ~~t~~To respond, in consultation with the Leader, to consultation documents in accordance with the ~~c~~Council's approved policies;₁

~~To compile the list of Assets of Community value in consultation with Executive Member for Development Management and Council Support and Ward Members~~

(l) ~~t~~To negotiate and settle claims by or against the cCouncil where this is considered to be in the best interests of the cCouncil in consultation with the relevant Head of Service and Head of Legal and Democratic Services;

(m) ~~t~~To carry out all duties and responsibilities and exercise all power under the Localism Act 2011 in relation to a Community Right to Challenge and where appropriate to nominate officers to carry out those duties or appoint external officers to carry out part or all of those duties or exercise powers;₁

~~To issue news releases about matters which have been the subject of consideration by the Executive or Committees~~

(n) ~~h~~Having consulted where appropriate with the relevant Mmember to issue news releases about other matter and to call press conferences;₁

9.2.15(o) ~~t~~

(a) — Where, in his/her opinion, by reason of limitation of time or urgency, a decision is required on any matter, after such consultation as he/she considers necessary (or as is required by the Council's Budget and Policy Framework Procedure Rules in Part 4 of this Constitution), he/she shall have power to make a decision provided that any such decision shall be reported to the next meeting of the Executive, appropriate Committee or Council unless there is a need for confidentiality, in which case the reporting of the decision may be deferred until the need for confidentiality expires.

To issue and renew authorisations for Officers, and appoint Inspectors to enter premises for the purpose of their official duties, in pursuance of statutory provisions in that behalf;:-

9.2.16(p) a

After consultation with the Head of Legal and Democratic Services and the Monitoring Officer to make revisions and amendments to the list of Politically Restricted Posts maintained under Section 2 of the Local Government and Housing Act, 1989 and to give Certificates of Opinion in connection with applications for exemption;:-

(q) — To act as Returning Officer, and any variation thereof as appropriate to different elections, and to appoint from time to time such Deputy Returning Officers as appear necessary for the proper conduct of elections; and to act as the Electoral Registration Officer, and appoint deputy Electoral Registration Officers. In the event that the Chief Executive is absent or incapacitated, the proper officer for the purposes of exercising the functions of the Electoral Registration Officer shall be the Elections Manager;:-

9.2.18(r) wWithin approved budgets, to determine all fees for functions carried out in respect of electoral registration and elections;:-

(s) iIn consultation with the Leader to designate an oOfficer of the cCouncil as its Monitoring Officer.

(t) tTo designate a polling place for each polling district under Sections 18 and 18B of the Representation of the People Act 1983; and

(u) tTo undertake a review of polling districts and places under section 18C of the Representation of the People Act 1983.:-

(v) In consultation with the Leader to designate an Officer of the Council as its Monitoring Officer.

10 Director(s)

10.1 To carry out the role of the Chief Executive and Head of Paid Service in his/her absence as nominated.

To deal with press enquiries and issue press releases on matter arising from the work of their Department

10.2 To lead on cross cutting projects spanning the council.

10.3 To take any steps necessary for the day to day management and routine administration of -matters within their remit without reference to the Executive or a Committee but subject to any necessary reference to the Head of pPaid Service.

10.4

10.4 -To take emergency action necessary for the safety of the public or the preservation of property of the Council.

To submit the Council's response to Government, Local Government Association and other similar consultation papers following discussion with the relevant Executive

Heads of Service

11 Head of Human Resources and Organisational Development

- 11.1 Human Resource matters should be subject to the overall direction of the Head of Paid Service.
- 11.2 The administration and implementation of the Council's organisational, employee development and human resources plans in consultation with Leadership team.
- 11.3 The interpretation and application of pay scales and conditions of service for all employees.
- 11.4 The granting of awards and application of benefits in consultation with Leadership team.
- 11.5 The interpretation and application of human resources policies.
- 11.6 Responsibility for an effective policy for the health, safety and welfare of council employees to be implemented at all levels.

12 Head of Legal and Democratic Services

- 12.1 -To carry out all legal action as specified under Permissions above in consultation with the relevant Head of Service or, their appointed deputy ~~or~~ in their absence.

12.2 -To hold and revise the list of politically restricted posts, in consultation with the Chief Executive, and to issue a Certificate of Opinion in connection with the Local Government and Housing Act 1989 – Politically Restricted Posts.

12.3 -To carry out a review and submit a report to Council as to the allocation of seats in accordance with the Local Government and Housing Act 1989 political balance provisions.

12.4

12.3.1(a) ~~TT~~ To take all necessary steps in legal proceedings against any person or body authorised by the C~~C~~ouncil.

12.5 ;

12.3.2 ~~()~~ To take all necessary steps to defend the c~~C~~ouncil in legal proceedings against the c~~C~~ouncil brought by any person or body, including in Employment Tribunals.;

12.6 ~~3.3~~ ~~()~~ To certify resolutions and documents as being correct.;

12.7

12.3.4 ~~()~~ To obtain Counsel's Opinion or instruct Counsel to appear on behalf of the Council whenever he/she considers such action advisable.;

12.8

12.3.5 ~~()~~ To insert and cancel entries in the Local Land Charges Register and otherwise to take all steps in respect of searches.;

12.9

12.3.6 ~~(j)~~ In consultation with appropriate officers, to grant wayleaves to statutory undertakers.

12.10 3.7 ~~(j)~~ To withdraw legal proceedings in his or her discretion.

12.11 3.8 ~~(j)~~ To fix charges for legal work carried out by the cCouncil.

12.12

12.3.9 ~~(j)~~ To institute legal proceedings in respect of any contravention of any licences, permits or consents and/or any breach of any condition attached thereto.

12.13

12.3.10 ~~(j)~~ To authorise officers of the Council to prosecute or defend or appear in any legal proceedings by virtue of the provisions of Section 223 of the Local Government Act, 1972.

12.14

12.3.11 ~~(k)~~ To exercise the required discretion whether or not to prosecute or defend legal proceedings on behalf of the cCouncil in accordance with Section 222 of the Local Government Act, 1972.

12.15

12.3.12 ~~(l)~~ To sign on behalf of the Council any deed or other document, which, in his or her professional judgement, is necessary or desirable to sign.

12.16

12.3.13 ~~(m)~~ To

act as Deputy Electoral Registration Officer.

12.17 3.14—To make changes to the Local Land Charge fees,
including making changes to existing charges and the
introduction of new charges and fee arrangements for new
land charge services.

1.14.2

1.14.2 ~~fees, including making changes to existing charges and the~~
~~introduction of new charges and fee arrangements for new~~
~~land charge services.~~

12.18 3.15To administer the naming and numbering, including the
renaming and renumbering, of streets and buildings in the
District in consultation with parish and town councils.

13 –Head of Strategic Finance and Property

- 13.1 To deliver, direct and manage the medium term financial planning of the organisation ensuring it is monitored and reported in a timely accurate fashion.
- 13.2 To deliver unqualified Statement of Accounts in accordance with legislative requirements.
- 13.3 To review listing decisions and compensation decisions for assets of community value.
- 13.4 To represent the cCouncil on Management Board for the Hertfordshire Shared Audit Service (SIAS) and the Shared Anti-Fraud Service (SAFS).
- 13.5
- 13.5 Appoint Debt Recovery Agents for the whole or part of the dDistrict as the need arises.
- 13.6 Authorise and Ssign Bbank Ttransfers and other payment types including, cheques, and authorise amendments to cheques.
- 13.7 Wherever necessary to amend and agree affected charges for services to take account of changes in VAT or other forms of taxation provided (Enforcement Agents) that any action taken shall be reported to the next convenient meeting of the Executive.
- 13.8 To be responsible for the ~~vary the~~ rate of interest for any of the cCouncil's borrowing activities and issue notices to the cCouncil's mortgages of any changes in the cCouncil's rate of interest.
- 13.9 To administer and manage the cCouncil's Collection Fund.
- 13.10
- 13.10 To set precept dates in agreement with precepting partners.
- 13.11 To administer the cCouncil's insurances fFund.

- 13.12 To make determinations within approved budget as are required under Part IV of the Local Government and Housing Act 1989 in respect of the funding of expenditure capital (but not in respect of borrowing limits) and report the action taken to the Executive for information.
- 13.13 To take day-to-day decisions in respect of the investment of cCouncil funds in accordance with the Annual Treasury Management strategy last approved by the Council.
- 13.14
- 13.14 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.
- 13.15 Lettings of all properties; consents to assignments and sub-lettings; the granting of easements and licences; entering into leases, sub-leases, licences and easements on behalf of the cCouncil 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 to the Executive.
- 13.16 To pursue appeals against rating assessments on cCouncil-owned and cCouncil-occupied property which, in his or /her judgement, are incorrect or excessive, and agree either new or revised rating assessments on cCouncil-owned and/or occupied property on behalf of the cCouncil.
- 13.17 In consultation with the appropriate Executive Member and Head of Legal and Democratic Services to prosecute or authorise the prosecution of persons committing malicious damage to cCouncil property.
- 13.18 The letting of cCouncil offices.
- 13.19 To make future updates of the room hire pricing structure.

13.20 To convey the freehold of electricity sub-station sites and to grant the necessary easements to the Electricity Board in respect of ~~Council Housing (or other)~~ developments.

13.21

13.21 The appointment of Debt Recovery Agents (Enforcement Agents) and the issue of warrants to those 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 ~~c~~Council in respect of the occupation of any Council dwelling.

14 Head of Revenue and Benefits Services

14.1 Authorise officers in consultation with the Head of Legal and Democratic Services to institute and appear in any legal proceedings relating to ~~c~~Council ~~t~~Tax and National Non Domestic Rates.

14.2 To receive and process housing benefit and council tax support applications including initial reviews of decisions relating thereto and to approve the backdating of housing benefit payments and council tax benefit payments to attend, as necessary, valuation and council tax tribunal hearings.;

14.3 To exercise discretion under the 1988 Housing Benefits Scheme (and any amendments thereto) to disregard, in determining a person's income, the whole of any war disablement pension or war widow's pension payable to that person.

14.4 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) ~~t~~the determination of discretionary non-domestic rate relief under Section 47, which should be undertaken in accordance with the most recent Discretionary Rates Relief policy approved by Executive; ~~on 25 October 2016~~ 8 April 2014 or subsequently

(b) other than for debts referred to in 14.5, to which 4
below applies (bankruptcy or liquidation) the writing-
off of debts in excess of £5,000; and.

(c) tThe reduction or remission of liability under section
49.

14.5 To write-off all cCouncil tTax and NNDR outstanding which
are the subject of formal bankruptcy or liquidation claims or
debt relief orders.

14.6 To determine charges for the service of a Summons and
Liability Order for non-payment of cCouncil tTax and NNDR
and the issue of a Distress Warrant subject to the approval
of the Court.

14.7 To enter into agreements for deferred payment of NNDR,
subject to registration of a charge on the Land Register, and
in accordance with cCouncil policy.

14.8

14.8 To consider in respect of any reapplication for reduction in
Non-Domestic Rate bills (within six months of refusal)
whether there is a significant change in circumstances in
which case the application shall be submitted to the
relevant Executive MemberPortfolio holder for
consideration.

14.9 To determine and pay Discretionary Housing payment in
accordance with Housing Benefit regulations and section 13
(A)(1)(c) Local Government Finance Act 1992, relating to
Exceptional Hardship in respect of cCouncil tTax.

15 Head of Planning and Building Control

15.1 To determine planning, Listed Building, reserved matters
and advertisement applications except where the
application:

- (a) is an outline or full permission for a major development as defined in the Town and Country Planning (Development Management Procedure) Order (England) 2015 as amended, except:
- (ii) applications which are for major development by virtue of the extent of the site area only (which remain delegated);
 - (iii) where the application is a reserved matters application pursuant to a previous major application which, itself has been approved (which remain delegated); and
- ~~And (iiii)~~ where the application is a major application which, having considered the requirements of the development plan and all other relevant material planning considerations, the Head of Planning and Building Control recommends to be refused and, in that case, following confirmation in writing from the Chairman of the Development Management (DM) Committee and a minimum of one local ward Member of their agreement with that recommendation, this remains as a delegated decision.
- (b) is a non-material or minor material amendment application (variation) pursuant to a previous major application unless except where the planning case officer has sought, and had confirmed in writing from the Chairman of the DM Committee and a minimum of one local ward Member, that the matter can be dealt with as a delegated decision;
- (c) is by a Member of the cCouncil;
- (d) is by an officer of the cCouncil employed in the planning service area;

- ~~(e)~~(e) if where the application is by an officer of the
cCouncil, other than one employed in the planning
service area and proposes development other than
householder development;
- ~~(f)~~ (f) it is one where a Member considers that delegated powers should not be exercised by the Head of Planning and Building Control. In which case the Member must contact the Chairman of the Development Management Committee to seek referral, submitting a completed application referral request form stating the reasons why the decision should not be delegated. The decision remains delegated until the DM Chairman confirms the referral request;
- ~~(g)~~ (g) a Applications requiring reference to the Secretary of State;
- ~~(h)~~1.8 a(h) Applications is for approval which and requires linking to an agreement under Section 106 of the Town and Country Planning Act (s106 Agreement) (except applications which propose a variation to an existing s106 Agreement, or a s106 Agreement which is related to a development other than a major development and, in those cases, subject to confirmation in writing from the Chairman of the DM Committee and a minimum of one local ward Member as amended; and
- 15.1.9(i) is(i) a Applications for development by or on behalf of the cCouncil, or which relates to a site in which it has a landowning interest, to which an objection has been made which is material to the development proposed.

15.2

To take all actions as necessary with regard to the receipt, validation, consultation and administration of all application types.

15.3

15.3 To take all actions as necessary with regard to the administration and submission of the cCouncil's case, including any review, alteration, amendment or withdrawal of that case, following the appeal of a planning decision that has been made under delegated powers.

15.3

15.4

15.4

15.4 To take all actions as necessary with regard to the administration and submission of the cCouncil's case, including any review, alteration, amendment or withdrawal of that case, in consultation with the Chairman of the Development Management Committee and a minimum of one local ward Member (where substantive change is proposed), following the appeal of a planning decision that has been made by the Development Management Committee.

15.4

15.5 To take all actions to negotiate and finalise the detail of legal agreements under s106 of the Town and Country Planning Act as amended, following authorisization of the heads of terms of such agreements by the Development Management Committee(where relevant), and in consultation with the Head of Legal and Democratic Services.

15.6

15.6 To take eEnforcement aAction in relation to legislation within the remit of the Area of Responsibility and in particular as detailed below:

15.6

15.6.1(a) t~~15.15.1~~To serve Planning Contravention Notices where it appears that a contravention of planning control has taken place.

(b)6 ~~t~~To issue Stop Notices, Enforcement Notices, Enforcement Orders and Advert Removal Notices To issue Breach of Condition Notices and Notices under Section 215 of the Town and Country Planning Act 1990 as amended in consultation with the Head of Legal and Democratic Services; and

(c)6 ~~i~~In cases of urgency and subject to consultation with the Chairman, to arrange for the serving of, temporary stop notices, uUrgent wWorks nNotices, rRepairs nNotices and Directions under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, and directions relating to unlisted buildings in conservation areas.

15.7 In consultation with the Head of Legal and Democratic Services, to~~To~~ apply for injunctions in~~in~~-appropriate cases where there are any breaches of planning and/or building control, Tree Preservation Orders, or Listed Building and Conservation legislation where it is felt that contravention of planning and/or building control has taken place, and to give any undertakings in damages in such cases.

15.178 ~~_____~~ 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 the matter be referred to the DM Committee and, in those cases upon, with the agreement of the Chairman of the DM Committee.

15.918 ~~_____~~ To make Tree Preservation Orders, and to determine applications for consent for the cutting down, topping or lopping of trees applications under the Hedgerow hedgerow Protection legislation regulations 1997 and exercise the powers and duties relating to high hedges under the Anti-social Behaviour Act 2003.

15.109 ~~_____~~ To exercise the cCouncil'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 or /her under Section 77, or has dismissed an appeal against the refusal of a similar application, and where, in the opinion of the Head of Planning and Building Control, there has been no significant change since the refusal or dismissal in the Development Plan or in any other material considerations.

15.2011 —The consideration, approval and payment of grants in respect of works to Listed Buildings, Heritage Assets at Risk, Undesignated Heritage Assets and with regard to Conservation Areas.

15.2112 —To exercise the cCouncil's planning powers for control of demolition.

15.2213 —To approve or reject plans submitted as non-material amendments to planning applications other than major planning applications.

~~previously submitted and approved, subject to consultation with the local Member(s) concerned in accordance with the Council's procedure.~~

15.2314 —To determine applications for certificates of appropriate alternative development.

15.2145— To determine applications for certificates of lawful use and development in relation to proposed used and existing use (in consultation with the Head of Legal and Democratic Services.

~~or their Deputy).~~

15.216 5—To make observations on development proposals by or on which comments are sought by Government Departments, statutory undertakers, and Hertfordshire and Essex County Councils and any other Local Planning Authority, which, where relevant, ~~which~~ are substantially in accordance with the cCouncil's policies and are not likely to be controversial.

15.26~~17~~— —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.

15.27~~18~~— —To advertise in the local press and/or by a notice on site applications for planning permission as required by any Development Order made by the Secretary of State.

15.28~~19~~ —————After consultation with the Chairman of the Development Management Committee and the Head of Legal and Democratic Services to institute legal proceedings in respect of the contravention of Tree Preservation Orders and unauthorised works to trees in Conservation Area.

15.290 —————To enter into Planning Performance and Extension of Time Agreements.

15.21 ~~30~~—To determine the submission of nominations for the registration of Assets of Community Value.

15.22 ~~31~~—To authorise 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.

15.23 ~~32~~—To determine submissions as to whether prior approval is required in relation to any of the forms of permitted development for which a prior approval process is required as set out in government regulations (as may be subsequently amended) and in relation to all of the matters which, as specified in the appropriate regulations, those approvals are to be made. Where the submission is one where a Member considers the delegated powers should not be exercised by the Head of Planning and Building Control, in that case, the Member shall submit a request in writing to the Chairman of the Development Management Committee setting out why delegated powers should not be exercised. The Chief Executive~~Chairman~~ shall determine whether delegated powers should be exercised in consultation with the Chairman and local ward Members.

15.3324 — To give screening opinions and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 2017 as amended.

15.25 34 — To determine fees for planning applications and planning performance agreements.

15.2635 — To determine the building regulation fees charged by the cCouncil and to take all actions as necessary acting at the cCouncil's representative on the Commissioning Panel with regard to the commissioning of the Building Control service.

15.27 To determine applications submitted for approval under the Building Regulations and made under the Building Act 1984 (as amended) and the Local Government (Miscellaneous Provisions) Act 1976.

15.28 To be the Appointing Officer for the purposes of the Party Wall Act 1996.

16.39

16.39 ~~To determine road closure applications under the Town Police Clauses Act 1847~~

16 Head of Housing and Health

Housing and Community Safety

16.1 To exercise the cCouncil's functions with regard to homeless persons.

16.2

16.2 ~~16.2~~ To procure and/or manage temporary accommodation in pursuance of the cCouncil's homelessness duties and powers.

16.3 To write off arrears and debts arising from the discharge of homelessness powers and duties up to a maximum sum specified by the Head of Strategic Finance and Property.

16.4 To determine a scheme of allocation of social and affordable housing, maintain registers and records of those

in housing need requiring social or affordable housing and nominate applicants to properties owned by private Registered Providers (RPs).

16.5

16.5 To determine levels of housing need, stock condition and market conditions.

16.6

16.6 To draw up development and/or regeneration schemes with RPs and other partners and pay grants to RPs and others on approved development schemes.

16.7

To make arrangements for and oversee the discharge of the Council's duties and powers relating to the granting of Disabled Facilities Grants and other means of supporting adaptations to the homes of disabled people.

16.8

To take action (in consultation with the Head of Legal and Democratic Services) to Prevent Nuisance and Annoyance in accordance with Part 1 of the Anti-Social Behaviour, Crime and Policing Act 2014.

16.9

To apply (in consultation with the Head of Legal and Democratic Services) for Closure Orders and to issue Closure Notices under Part 3 of the Anti-Social Behaviour, Crime and Policing Act 2014.

16.10

To serve (in consultation with the Head of Legal and Democratic Services) Community Protection Notices, and Fixed Penalty Notices in the event of a breach, under Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014.

16.11

To make a public spaces protection orders (in consultation with the Head of Legal and Democratic Services) under Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014.

16.12

In all cases involving arrears of mortgage payments and in consultation with the Head of Strategic Finance and Property and Head of Legal and Democratic Services or duly authorised officers, 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.

- 16.13 In relation to the recovery of contributions to the cost of sewerage services in respect of cCouncil houses which are sold:-

16.13

16.13.(a)1 t16.14 To determine actual annual costs and payments on account; and

16.13.2(b) i16.15 In consultation with the Executive or Executive Member~~Portfolio Holder~~, to make special arrangements in the case of hardship or, where necessary, to comply with an existing agreement.

16.164 ~~To grant approval for schemes submitted by Housing Associations, and be the Council's approved signatory for such schemes, subject to liaison with the Head of Strategic Finance and Property as necessary; in addition, the Manager of Housing Services be designated an authorised signatory on behalf of East Hertfordshire District Council for Homes and Community Agency Approval and Grant Claims.~~

To determine requirements and make arrangements for CCTV services funded by the cCouncil.

16.15 To approve activities under the Regulation of Investigatory Powers Act 2000.

16.16 To be responsible for emergency planning matters.

16.17 To exercise the cCouncil's community safety functions under the Crime and Disorder Act 1998, Police and Justice Act 2006 and Anti-Social Behaviour, Crime and Policing Act 2014.

Licensing and Environmental Health

- 16.18 ~~To exercise the cCouncil's functions relating to hackney carriage/private hire licensing unless relating to a matter reserved for Licensing Committee or Licensing Sub-committee.- 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.~~
- 16.18 To undertake, in consultation with the Head of Legal and Democratic Services, prosecutions of hackney carriage drivers and private hire vehicle drivers for road traffic offences and other drivers for criminal offences relating to taxi ranks.
- 16.19 To exercise all functions under the Licensing Act 2003 and Gambling Act 2005 including all administrative functions and determinations of unopposed applications for premises licences, personal licences, club premises certificates, temporary events notices, regulated entertainment and late night refreshments, permits and the setting of fees and charges where the legislation allows local determination.
- 16.20
- 16.20 To enforce the enactments arising from the legislation set out in Appendix A of this Constitution.
- 16.21 To authenticate on the cCouncil's behalf of any notice, certificate or other document required to be issued in relation to the legislation in Appendix A, Part 1, of this Constitution, subject to the matter being referred to the Licensing Committee where policy or financial considerations are involved that have not previously been determined by the Committee or other appropriate body of the cCouncil.
- 16.22
- 16.22 To exercise the powers of the cCouncil as registration authority including the issue, renewal and transfer of all licences and registrations listed in Schedule I below, upon appropriate conditions.

16.23

16.23 The issue of occasional permissions in respect of those licences listed in Schedule I upon appropriate conditions.

16.24

16.24 To authorise officers to sign licences listed in Schedules I and II.

16.25

16.25 The variation of licence conditions in respect of:

(a) ~~16.27.1~~ licences listed in Schedule I; and

(bii) ~~16.27.2~~ individual licences listed in Schedule II where there are no objections.

Schedule I:

- Charitable Collection Permits including Street Collections and House to House Collections
- Game Licences
- Riding Establishments Licence Zoo licence
- Dangerous, Wild Animals Licence
- Animal Boarding Establishments Licence
- Dog Breeding Licence
- Pet Shop Licence
- Skin Piercing Registrations Street Trading consent
- Cooling Towers registration
- HMO Licences
- Caravan Site Licence

Schedule II:

- Licences under the Licensing Act 2003, ~~Gambling Act 2005~~
- ~~Gambling Act 2005~~

- Sex Shop [Licenses](#)
- Sexual Entertainment Venues

16.26 ~~To authorise officers to discharge all functions of the~~
~~cCouncil under the Scrap Metal Dealers Act 2013.~~

16.27

16.27 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 [listed](#) in Appendix A ~~-(below)~~ (subject to [consultation with, and the agreement of,](#) the Head of Legal and Democratic Services.

16.28 ~~being satisfied as to the sufficiency of the evidence).~~

16.28 To ~~authorise officers to~~ exercise powers and duties [and enforce enactments arising from the legislation falling within the legislation](#) referred to ~~at in~~ Appendix A, [and authorise officers to do so, \(below\),](#) 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 cCouncil's policies and having the necessary competency and experience.

16.29

16.29 To authorise suitably qualified and experienced officers to serve and sign in their own name all improvement notices, prohibition notices, decisions, other notices with respect to food safety, health and safety, private sector housing, public health and other legislation in Appendix A. [Part 2.](#)

16.30

16.30 To authorise ~~officers who are~~ suitably qualified and experienced [officers](#) to serve and sign in their own name all authorisation, variation, revocation, enforcement and prohibition notices under local authority pollution control enforcement.

16.31

16.31 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.

16.32

16.32 To appoint as inspectors such persons having suitable qualifications ~~as he or she thinks necessary~~ 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.

16.33

16.33 To instruct, on behalf of the cCouncil, 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 cCouncil be authorised to enter any premises to advise as necessary on action to be taken under the animal welfare legislation listed in Appendix A.

16.34

16.34 To nominate officers for the cCouncil in respect of Notifiable Disease and food poisoning and for action under Section 47 of the National Assistance Act 1948.

16.35

16.35 Pursuant to Section 19 of the Health and Safety at Work etc Act 1974, to appoint as Inspectors such persons having suitable qualifications, and arrange for other people to accompany the Inspectors, ~~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 in consultation with the Head of Legal and Democratic Services as appropriate.

16.368 _____.

~~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.~~

¶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 cCouncil, or vice versa.

16.379 _____ To submit 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.

16.3840 _____ To give directions and make applications to the Magistrates' Court in respect of unauthorised encampments in the District in consultation with the Head of Legal and Democratic Services as appropriate.

~~To undertake, in consultation with the Head of Legal and Democratic Services, prosecutions of hackney carriage drivers and private hire vehicle drivers for road traffic offences and other drivers for criminal offences relating to taxi ranks.~~

16.3941 _____ To authorise officers to discharge the functions contained in the European Communities Act 1972 and in particular the following matters:

(a) _____ agricultural produce (quality standards and labelling);

(b) _____ animal health and welfare;

(c) _____ econsumer protection;

~~animal feed;~~

~~consumer protection;~~

(d) _____ environmental ~~protection~~;

(e) _____ food hygiene and standards; and

(f) _____ public health and standards.

~~weights and measures (including measuring instruments).~~

16.40 21 To authorise officers to discharge land drainage functions under the Public Health Act 1936 and the Land Drainage Act 1991.

~~To authorise officers to enforce the Sunbeds (Regulation) Act 2010.~~

~~18.12.1.1.1 To authorise officers to discharge all functions of the Council under the Scrap Metal Dealers Act 2013.~~

Public Health, Wellbeing and Community Transport

16.413 To act as the cCouncil's designated Lead Officer for Safeguarding.

16.424 To devise and administer arrangements for distributing grants to improve the health and wellbeing of local people and/or provide community transport services.

16.43 To award Arts and Sports Grants in accordance with established criteria and cCouncil pPolicy and in consultation with the Head of Operations as appropriate.

Other

16.4436 To submit monitoring returns to government departments, regulatory bodies and others.

16.45 To determine road closure applications under the Town Police Clauses Act 1847.

APPENDIX A

Part 1 – legislation of particular relevance to the Council's Licensing function (subsequent amendment implied)

~~Animal Boarding Establishments Act 1963~~ ~~Animal Welfare Act 2006~~
~~Betting, Gaming and Lotteries Act 1963~~
~~Environmental Protection Act 1990~~
~~Gambling Act 2005~~
~~Gaming Act 1968~~
~~Hypnotism Act 1952~~
~~Licensing Act 2003~~
~~Local Government (Miscellaneous Provisions) Act 1976~~
~~Local Government (Miscellaneous Provisions) Act 1982~~
~~Lotteries & Amusements Act 1976~~
~~Scrap Metal Dealers Act 2013~~
~~Theatres Act 1968~~

Part 2 – legislation of particular relevance to the Council's Environmental Health function (subsequent amendment implied)

~~Animal Boarding Establishments Act 1963~~
~~Animal Welfare Act 2006~~
~~Betting, Gaming and Lotteries Act 1963~~
~~Breeding of Dogs Act 1973~~
~~Breeding of Dogs Act 1991~~
~~Breeding and Sale of Dogs (Welfare) Act 1999~~ ~~Building Act 1984~~
~~Caravan Sites Act 1968~~
~~Caravan Sites and Control of Development Act 1960~~
~~Christmas Day Trading Act 2004~~
~~Cinemas Act 1985~~
~~Clean Air Act 1993~~
~~Clean Neighbourhoods and Environment Act 2005~~
~~Control of Pollution Act 1974~~
~~Criminal Justice and Public Order Act 1994~~
~~Dangerous Dogs Act 1989~~
~~Dangerous Dogs Act 1991~~ ~~Dangerous Wild Animals Act 1976~~
~~Energy Act 2013 (and regulations thereunder)~~
~~Enterprise and Regulatory Reform Act 2013~~ ~~Environment Act 1995~~ ~~Environmental 1995~~
~~Environment Act 1995~~
~~Environmental Protection Act 1990~~
~~European Communities Act 1972~~
~~Factories Act 1961~~
~~Food Safety Act 1990 (as amended)~~
~~Gambling Act 2005~~
~~Game Act 1831~~

[Game Licences Act 1860](#)
~~[Gaming Act 1968](#)~~
[Guard Dogs Act 1975](#)
[Health Act 2006](#)
[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 1985](#)
[Housing Act 2004](#)
[Housing Act 2006](#)
[Housing and Planning Act 2016](#)
~~[Hypnotism Act 1952](#)~~
~~[Licensing Act 2003](#)~~
~~[Housing, Grants, Construction and Regeneration Act 1996](#)~~
[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 Act 1996](#)
[Noise & Statutory Nuisances Act 1993](#)
[Offices, Shops and Railways Premises Act 1963](#)
[Pet Animals Act](#) ~~[Party Wall etc Act](#)~~
~~[Animals](#)~~ ~~[Animals](#)~~ ~~[1996](#)~~
~~[Party Wall etc Act 1996](#)~~
[Pet Animals Act 1951](#)
[Pet Animals Act and 1983](#)
[Pollution Prevention and Control Act 1999](#)
[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 1936](#)~~ ~~[Public 1936](#)~~

~~[Public Health Act 1936](#)~~
[Public](#)
[Health Act 1961](#)
~~[Rag Rag Rag 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](#)
[Sunbeds \(Regulation\) Act 2010](#)
[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 1984~~

APPENDIX B

~~Anti-Social Behaviour, Crime and Policing Act 2014~~
~~Clean Neighbourhoods and Environment Act 2005~~
~~Environmental Protection Act 1990~~
~~Controlled Waste Regulations (2012)~~
~~Criminal Justice and Police Act 2001~~
~~Dangerous Dogs Act 1991~~
~~Dogs (Fouling of Land) Act 1996~~
~~Guard Dogs Act 1975~~
~~Environmental Protection Act (1990)~~
~~Policing and Crime Act 2009~~
~~Prevention of Damage by Pests Act 1949~~
~~Refuse Disposal (Amenity) Act 1978~~
~~Dangerous Dogs Act 1989~~
~~Road Traffic Regulation Act 1984~~

Head of Operations

17 Head of Operations

~~To award Arts and Sports Grants in accordance with established criteria and Council Policy.~~

17.1 _____ 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.

17.2 _____ 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.

17.3 _____ To authorise the use of the ~~c~~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.

~~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.~~

17.4 _____ Restriction of the use or closure of bowling greens during periods of drought.

17.5 _____ Control of all grounds owned by the cCouncil, ~~, including Castle Gardens and Grounds at Bishop's Stortford and Hertford.~~

17.6 _____ The letting of cCouncil gardens and car parks.

17.7 _____ The removal, storage and disposal of abandoned vehicles under the Refuse Disposal (Amenity) Act 1978.

17.8 _____ To administer the Scheme for the collection of trade refuse.

17.9 _____ Approval of types and siting of litter bins provided by pParish and tTown cCouncils.

17.10 _____ 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.

17.11 _____ 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.

17.12 _____ To be identified as contact officer for the public under the Code of Practice of the Environmental Protection Act 1990.

17.13 _____ In consultation with the Head of Legal and Democratic Services 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.

17.14 _____ 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

Head of Legal and Democratic Services being satisfied as to the sufficiency of the evidence).

17.15 _____ 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 ~~c~~Council's policy and having the necessary competence and experience.

17.16 _____ To serve (in consultation with the Head of Legal and Democratic Services) Community Protection Notices, and Fixed Penalty Notices in the event of a breach, under Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014.

17.17 _To make a public spaces protection order, (in consultation with the Head of Legal and Democratic Services) under Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014.

17.18 _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)~~.

18 Head of ICT and Business Systems (or equivalent post-holder as provided by Stevenage Borough Council under the shared services arrangements)

18.1 _To develop the council's information systems, and information technology and e-government strategies.

18.2 _To develop the council's information and communications technology strategies including the supply, withdrawal, data protection, security and integrity of the systems to ~~officers~~staff and ~~M~~members.

18.3 _To supply connections and services to public sector partners and other organisations as required, provided that the integrity of the council's information systems is maintained.

19 Head of Communications, Strategy and Policy

- 19.1** _____To lead interpretation of and promote council compliance with the Public Sector Equality Duty as part of the Equality Act 2010.
- 19.2** To ensure compliance with Section 88 of the Localism Act regarding the registering of Assets of Community Value.
- 19.3** To ensure compliance with the Government's Code of Recommended Practice on Local Authority Publicity pursuant to the Local Government Act 1986.
- 19.4** To advise on best practice in public consultation in line with the Cabinet Office's Consultation Principles 2016 and any successor guidance or requirements.

APPENDIX A

Part 1 – legislation of particular relevance to the cCouncil’s Licensing function (subsequent amendment implied)

[Betting, Gaming and Lotteries Act 1963](#)
[Environmental Protection Act 1990](#)
[Gambling Act 2005](#)
[Gaming Act 1968](#)
[Hypnotism Act 1952](#)
[Licensing Act 2003](#)
[Local Government \(Miscellaneous Provisions\) Act 1976](#)
[Local Government \(Miscellaneous Provisions\) Act 1982](#)
[Lotteries & Amusements Act 1976](#)
[Scrap Metal Dealers Act 2013](#)
[Theatres Act 1968](#)

Part 2 – legislation of particular relevance to the cCouncil’s Environmental Health function (subsequent amendment implied)

[Animal Boarding Establishments Act 1963](#)
[Animal Welfare Act 2006](#)
[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](#)
[Christmas Day Trading Act 2004](#)
[Clean Air Act 1993](#)
[Clean Neighbourhoods and Environment Act 2005](#)
[Control of Pollution Act 1974 Justice and Public Order Act 1994](#)
[Dangerous Wild Animals Act 1976](#)
[Energy Act 2013](#)
[Enterprise and Regulatory Reform Act 2013](#)
[Environment Act 1995 Protection Act 1990](#)
[European Communities Act 1972](#)
[Factories Act 1961](#)
[Food Safety Act 1990](#)
[Game Act 1831](#)
[Game Licences Act 1860](#)
[Guard Dogs Act 1975](#)
[Health Act 2006](#)
[Health & Safety at Work Etc Act 1974](#)
[Home Energy Conservation Act 1995](#)
[Housing Act 1985](#)
[Housing Act 1996](#)
[Housing Act 2004](#)
[Housing and Planning Act 2016](#)
[Housing, Grants, Construction and Regeneration Act 1996](#)
[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](#)
[Noise Act 1996](#)
[Noise & Statutory Nuisances Act 1993](#)
[Offices, Shops and Railways Premises Act 1963](#)
[Pet Animals Act Party Wall etc Act 1996](#)
[Pet Animals Act 1983](#)
[Pollution Prevention and Control Act 1999](#)
[Prevention of Damage by Pests Act 1949](#)
[Protection from Eviction Act 1977](#)
[Public Health \(Control of Diseases\) Act 1984](#)
[Public Health Act 1936](#)
[Health Act 1961](#)
[Riding Establishments Act 1964](#)
[Riding Establishments Act 1970](#)
[Sunbeds \(Regulation\) Act 2010](#)
[Sunday Trading Act 1994](#)
[Transport Act 1985](#)
[Vehicles \(Crime\) Act 2001](#)
[Water Industry Act 1991](#)
[Zoo Licensing Act 1981](#)

APPENDIX B

[Anti-Social Behaviour, Crime and Policing Act 2014](#)
[Clean Neighbourhoods and Environment Act 2005](#)
[Environmental Protection Act 1990](#)
[Controlled Waste Regulations \(2012\)](#)
[Criminal Justice and Police Act 2001](#)
[Dangerous Dogs Act 1991](#)
[Dogs \(Fouling of Land\) Act 1996](#)
[Guard Dogs Act 1975](#)
[Environmental Protection Act \(1990\)](#)
[Policing and Crime Act 2009](#)
[Prevention of Damage by Pests Act 1949](#)
[Refuse Disposal \(Amenity\) Act 1978](#)
[Dangerous Dogs Act 1989](#)
[Road Traffic Regulation Act 1984](#)

APPENDIX B

~~[Anti-Social Behaviour, Crime and Policing Act 2014](#)~~
~~[Clean Neighbourhoods and Environment Act 2005](#)~~
~~[Environmental Protection Act 1990](#)~~
~~[Controlled Waste Regulations \(2012\)](#)~~
~~[Criminal Justice and Police Act 2001](#)~~
~~[Dangerous Dogs Act 1991](#)~~

~~Dogs (Fouling of Land) Act 1996~~ ~~Guard Dogs Act 1975~~
~~Environmental Protection Act (1990)~~
~~Policing and Crime Act 2009~~
~~Prevention of Damage by Pests Act 1949~~ ~~Refuse Disposal~~
~~(Amenity) Act 1978~~ ~~Dangerous Dogs Act 1989~~
~~Road Traffic Regulation Act 1984~~

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Functions and Responsibilities Section D – Statutory and Proper Officers

The following are the Statutory and Proper Officers of the Council under the enactments shown below.

Statutory Officers

Legislation	Function	Post holder
Section 4(1) Local Government and Housing Act 1989	Head of Paid Service	Chief Executive (Directors nominated as deputies)
Section 5(1) Local Government and Housing Act 1989	Monitoring Officer	Head of Legal and Democratic Services (Legal Services Manager nominated as deputy)
Section 151 Local Government Act 1972	Chief Financial Officer	Head of Finance and Property Services
Section 35 Representation of the People Act 1983	Returning Officer	Chief Executive
Section 8 Representation of the People Act 1983	Electoral Registration Officer	Chief Executive
Article 37 General Data Protection Regulations 2016/679	Data Protection Officer	Data Protection Officer

Notes:

1. Section 113 Local Government and Finance Act 1988 provides that the Chief Finance Officer must also be the Council Tax Registration Officer.
2. Under Section 114 Local Government and Finance Act 1988 the Chief Finance Act 1988 the Chief Finance Officer nominate a suitable qualified member of his/her staff to carry out his/her duties under that Section when s/he is unable to act through absence or illness.
3. Under 5(7) Local Government and Housing Act 1989 the Monitoring Officer must nominate a deputy to act when s/he is unable through absence or illness to fulfil the role him/herself.
4. Under Section 35 Representation of the People Act 1983 the Returning Officer may appoint deputies to assist him/her in his/her duties.

5. Under s52(2) Representation of the People Act 1983 the Electoral Registration Officer may appoint deputies to assist him/her in his/her duties.
6. Under s24 Representation of the People Act 1983 the Returning Officer at a parliamentary election is the Chairman of the Council However under Section 28, the Electoral Registration Officer may discharge the functions of the Returning Officer as Acting Returning Officer. Under sub-section (5) the Acting Returning Officer has power to appoint deputies.
7. Under Article 37 of the -General Data Protection Regulations 2016/679, the Council as a data controller shall designate a Data Protection Officer.

Proper Officers

Legislation	Function	Post Holder
Local Government Act 1972		
Section 83 (1) to (4)	Provides that a declaration in the prescribed form of acceptance of officer of Chairman, Vice-Chairman or Councillor be made to the proper officer.	Head of Legal and Democratic Services
Section 84(1)	States that written notice of resignation must be given by Councillors to the proper officer.	Head of Legal and Democratic Services
Section 88(2)	Gives the proper officer power to convene a meeting for the purpose of convening a casual vacancy in case of Chairman of the Council.	Head of Legal and Democratic Services
Section 89(1)(b)	Makes provision for the proper officer to accept notice in writing of the casual vacancy occurring in the office of councillor.	Head of Legal and Democratic Services <u>Chief Executive</u>
Section 96	Provides that the Proper Officer is to receive and record disclosures of pecuniary interests under Section 94.	Head of Legal and Democratic Services
Section 100(a) to (h) (excluding (f))	For all purposes connected in the Local Government Act 1972 and the Local Government Act 2000 concerned with the provision of information	Head of Legal and Democratic Services

	about the decisions made or to be made by councillors including access to agenda, reports, background papers, minutes and records of decisions.	
Section 100 (f)	Provides that the proper officer is to deal with additional rights of access of documents for members of principal councils.	Chief Executive
S115	Provides that the proper officer shall receive any monies held or received by officers during the course of employment, or shall issue directions as to whom the monies should be paid.	S151 Officer
Section 137(a)	Gives the proper officer power to require a voluntary organisation or similar body to supply information to him/her, where a local authority uses its powers under Section 137 to give financial assistance to that voluntary organisation or similar body above a relevant minimum.	S151 Officer
Section 146	Provides that the proper officer is to make a statutory declaration, or give a certificate, in order to allow for securities etc. to be transferred on change of name of local	S151 Officer

	authority or change of area.	
Section 210(6) and (7)	Appoints the proper officer to be vested with certain powers in respect of charities.	Chief Executive
Section 212	Proper Officer for the Local Register for Land Charges.	Head of Legal and Democratic Services
Section 225	Imposes a duty on the proper officer to receive and retain documents deposited with him/her pursuant to standing orders of either House of Parliament or any statute or instrument.	Head of Legal and Democratic Services
Section 228	Accounts of any Proper Officer to be open to inspection by any Member of the Authority.	S151 Officer
Section 229(5)	Provides that the proper officer must certify any photographic copies of documents.	Head of Legal and Democratic Services
Section 234 (1)	Provides that any notice, order or other document which a local authority are authorized or required to give under any enactment may be signed on behalf of the authority by the proper officer.	Head of Legal and Democratic Services
Section 238	Provides that printed copies of bylaws are endorsed with a certificate	Head of Legal and Democratic Services

	signed by the proper officer.	
Schedule 12 Section 99	Conduct of meetings including requirements for notices to be given and sign summons to attend meetings of the Council <u>and polls</u>	Head of Legal and Democratic Services
Local Government Act 1974		
Section 30	Proper Officer must give public notice of Local Government Ombudsman's Reports.	Head of Legal and Democratic Services
<u>Local Land Charges Act 1975</u>		
<u>Section 3(1)</u>	<u>Chief Land Registrar for the Register of Local Land Charges</u>	<u>Head of Legal and Democratic Services</u>
Representation of the People Act 1983		
Section 67	Receipt of notice of an election agent for local elections.	Chief Executive
Sections 82 and 89	Receipt of election expense declarations and returns and the holding of those documents for public inspection.	Chief Executive
Sections 128	Provides that a copy of any petition questioning a local government election shall be sent to the proper officer who shall publish it in the local authority area.	Chief Executive

Local Elections (Principal Areas) (England and Wales) Rules 1986 and (Parishes and Communities) (England and Wales) Rules 1986		
	Retention and public inspection of document after an election.	Chief Executive
Local Government and Finance Act 1988		
Section 114	Duty to Report.	S151 Officer
Section 116	Provides that the proper officer must give the authority's auditor notice of meetings held under s115.	S151 Officer
Local Government and Housing Act 1989		
Section 2	Proper Officer to hold a list of politically restricted posts.	Head of Legal and Democratic Services
Section 19	Notices of Members Interests and Maintenance of Records.	Head of Legal and Democratic Services
Local Government Act 2000		
All	All references to the Proper Officer in the Local Government Act 2000 and subordinate legislation.	Head of Legal and Democratic Services
Scrap Metal Dealers Act 2013		
All	To carry out the functions under the Scrap Metal Dealers Act.	Head of Housing and Health Head of Housing and Health
Miscellaneous		
All Provisions	Any other miscellaneous proper or statutory officer	Chief Executive or his/her nominee

	functions not otherwise specifically delegated by the Authority.	
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Executive Portfolio Structure – Section E

1 Individual Executive members

Executive functions will be performed by the Executive. These functions will be grouped together in the form of portfolios, the number and scope of which will be determined by the Leader. The Leader will also allocate responsibility for the portfolios among the individual Executive Members on an annual basis and shall have the ability to amend these in year as required. The Leader has allocated a “Portfolio” to each Executive Member and delegated to each “Portfolio Holder” responsibility for the discharge of functions set out below.

1.2 The Portfolios and areas of responsibility are as follows:

<u>Portfolio</u>	<u>Areas of Responsibility</u>
<u>Leader of the Council</u>	<u>Leadership and strategic direction of the Council</u> <u>Communications</u> <u>District Plan</u> <u>Master Planning</u>
<u>Environment and the Public Realm</u>	<u>Licensing</u> <u>CCTV partnership</u> <u>Environmental Health</u> <u>Police liaison</u> <u>Emergency planning</u> <u>Community safety</u> <u>Recycling / waste partnership</u> <u>Public realm & open spaces and parks</u> <u>Air quality</u>
<u>Development Management and Council Support</u>	<u>Development management</u> - <u>Conservation</u> - <u>Planning enforcement</u> - <u>Building control (external)</u> <u>Councillor support</u> <u>Customer services</u>

	<ul style="list-style-type: none"> - customer facing web - IT services - Digital East Herts
Economic Development	Economic development Parking Transport
Finance and Support Services	Finance / Budget Facilities Management Asset Management Property investment and development Health & Safety Legal and Democratic Services Internal Audit Revenues and Benefits IT (infrastructure & shared service) Performance Risk Management Human Resources and Organisational Development
Health and Wellbeing	Grants <ul style="list-style-type: none"> - Community - Public Health Arts/ Culture/ Sport/ Activity and Leisure <ul style="list-style-type: none"> - Hertford Theatre - Herts Sports Partnership - Active East Herts - Forever Active Community Wellbeing <ul style="list-style-type: none"> - Champions HIA
Housing	Housing <ul style="list-style-type: none"> - RSLs - Private Landlords - Empty Homes Strategy
Whole Executive	Safeguarding Transformation and Improvement

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Portfolio
Leader of the Council
Environment and the Public Space
Development Management and Council Support

Portfolio	Areas of Responsibility
Finance and Support Services	<ol style="list-style-type: none"> 1. Finance 2. Facilities Management 3. Asset Management 4. Democratic Services 5. Legal 6. Revenues and Benefits 7. Internal Audit 8. IT 9. Performance and risk management 10. Human Resources and Organisational Development
Health and Wellbeing	<ol style="list-style-type: none"> 1. Affordable housing 2. Private landlord matters and empty homes 3. Community grants 4. Arts, leisure and culture 5. Community development 6. Public health
Whole Executive	<ol style="list-style-type: none"> 1. Safeguarding 2. Transformation and improvement

1.3 The following responsibilities have been delegated to each individual Executive Members to exercise within his or her portfolio and service area:

- (a) to exercise the Executive powers and duties of the council for strategic development, policy direction, partnership working, key decisions, programme and performance management, in accordance with the council's procedure rules, for their portfolio areas;
- (b) to be responsible for ensuring the successful delivery of business transformation in relation to their portfolio areas;
- (c) to request the Overview and Scrutiny Committee to review changes to policy and strategy within their areas of responsibility;

- (d) to have oversight of budget planning and monitoring in their service area, including minor in-year changes to fees and charges;
 - (e) to act as the council's lead spokesperson and representative on strategic bodies for their areas of responsibility and to respond to relevant consultations by Central Government and other agencies;
 - (f) where there are implications for policies of the council, to agree responses to consultation papers from the Government (including White and Green papers) or any regional or professional body;
 - (g) to determine priorities in conjunction with the relevant member of the council's Leadership Team and other Executive members (within the policy framework and budget);
 - (h) to make suggestions for policy initiatives (within the budget and/or policy frameworks) and for amendments to the budget and/or policy framework, for agreement by the Executive and Council;
 - (i) to recommend to the Executive a response to reports from the Overview and Scrutiny Committee or Performance, Audit and Governance Committee in respect of the allocated services;
 - (j) to review customer satisfaction, results of consultation with stakeholders and the efficiency of service provision generally and to agree arrangements for continuous improvements to be made
- .
- (k) to consider and recommend plans in respect of the portfolio allocated;
 - (l) to promote effective relationships and partnerships between the council and all other bodies and agencies affecting the community;

(m) to consult any advisory bodies as directed by the Executive;

(n) to agree minor matters and non-material amendments to policy;

(o) to approve the allocation of grant funding provided by the council to third parties within approved overall budgets for this purpose; and

(p) to approve all in year changes to both fees and charges.

1.4 The Executive Member for Environment and Public [RealmSpace](#) has been delegated authority:

(a) to approve all Community Safety Partnership Strategies arising under the Crime and Disorder Act or other related legislation.

1.5 The Executive Member for Finance and Support Services has been delegated authority:

(a) to consider the needs for particular properties and/or other assets held by the council and to make recommendations to the Executive regarding their use, improvement and/or disposal.

1.6 Under Part 4 of this constitution, the Leader may exercise any of the functions delegated to individual Executive Member.

1.7 The Leader may delegate other functions not expressly set out herein to individual Executive Members provided they are Executive functions and provided due notice of the exact terms of the delegation and the name of the Executive Member is lodged with the Proper Officer.

PART 4

Rules of Procedure

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Part 4 – Rules of Procedure Part A

Council Procedure Rules

1. Introduction
2. Annual meeting of the Council
3. Ordinary meetings
4. Extraordinary meetings
5. Appointment of Substitute Members of Committees and Sub-Committees
- ~~Time and place of meetings~~
6. Notice of and summons to meetings
7. Chairman of meeting
8. Quorum
9. Duration of meeting
10. Questions by the public
11. Petitions
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14. Motions on notice
15. Motions without notice
16. Rules of debate
17. Previous decisions and motions
18. Voting
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22. Members' conduct
23. Disturbance by public
24. Suspension and amendment of Council Procedure Rules
25. Application to committees and sub-committees
26. Disclosable Pecuniary Interests

1.0 Introduction

1.1 —Ordinary meetings of the Council will usually take place at least four times a year, commencing at 7pm, or at another time agreed by the Chairman.

1.22 — Meetings will usually take place at the council's main offices but may take place at other venues with the agreement of the Chairman.

1.3 3.—There are three types of Council Meetings, the Annual meeting, Ordinary meetings and Extraordinary Meetings. These are dealt with in more detail below.

1.4 — Council meetings will be chaired by the Chairman, or in his or her absence, by the Vice-Chairman.

1.5 —Notice of all meetings of the Council will be given to the public by the Proper Officer in accordance with the Access to Information Rules five clear working days before the date of the meeting. Notice by summons will also be given by the Proper Officer to each Member of the council in the manner prescribed in the Access to Information Procedure rules. The summons shall contain the date, time and place of each meeting, specify the business to be transacted and be accompanied by such reports that may be available.

1.6 —The Proper Officer is authorised to cancel a meeting where the agenda has already been issued if it considered expedient. Before exercising this authority, the Proper Officer will consult with the Chairman and the Leader of the council. Any outstanding business will be held over to the next ordinary meeting or an extraordinary meeting on a date to be arranged.

1.7 — The council may make audio and/or visual recordings of meetings and broadcast or otherwise make them available to the public on its website or by other means.

24.0 Annual meeting of the council

24.1 ————Timing and business

The Annual Meeting of the Council will be held:

- (a) in a year when there is an ordinary election of
councillors to the council, on such a day within the
annual meeting will take place within 21 days
immediately following the day of of the retirement of
the outgoing councillors as the council may fix;
- (b) in any other year, on such a day in the month of
the annual meeting will take place in March, April or
May as the council may fix;
- (c) at such hour as the council may fix.

A(d) — at the The Annual Meeting, the Council will:

- (a) elect a person to preside if the retiring Chairman and
Vice Chairman are of Council is not present;
- (b) elect the Chairman for the ensuing year of Council;
- (c) appoint elect the Vice Chairman of Council for the
ensuing year;
- (d) approve the minutes of the last meeting;
- (e) receive any announcements from the Chairman;
and/or head of the paid service;
- (f) receive any announcements from the officer advising
the Chairman including apologies for absence;
- (g) elect the Leader at the post-election annual meeting;
- (h) if practicable, be told by the Leader about the
composition and constitution of the Executive for the
ensuing year, and the names of Members chosen to
be Executive Members;

- ~~(ix)~~ determine the council's committee structure and chairmen/membership;
- ~~(jx)~~ determine arrangements for outside bodies and receive annual updates on outside body activities;
- ~~(kxvi)~~ review and update ~~consider and approve~~ the Constitution if necessary;
- ~~(vii)~~ ~~agree the number of Members to be appointed to the executive;~~
- ~~(lxviii)~~ appoint at least one scrutiny committee, a committee to carry out the functions of 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);
- ~~(imxiii)~~ agree the scheme of delegation;
- ~~(nxiv)~~ approve a programme of ordinary meetings of the Council for the year; and
- ~~(oxvi)~~ consider any business set out in the notice convening the meeting.

24.2 Selection of ~~Members~~**Councillors** on Committees and Outside Bodies

At the annual meeting, the Council meeting will:

- ~~(ai)~~ decide which committees to establish for the civic year;
- ~~(bi)~~ decide the size and terms of reference for those committees;
- ~~(ciii)~~ decide the allocation of seats and substitutes to political groups in accordance with the political balance rules;

- (div) receive, or arrange the delegation of, e-nominations of ~~Members~~Councillors to serve on each committee and any outside body for which a new appointment or re-appointment is required.; ~~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.~~

32.0 Ordinary meetings

32.1 Ordinary meetings of the Council will usually take place at 7.00 pm, or at any other time agreed by the Chairman, in accordance with the ~~a~~ programme previously approved by the ~~decided at the~~ Council's annual meeting. Ordinary meetings will:

3.2 The order of business at every ordinary meeting of the Council will include:

- (ai) electing a person to preside if the Chairman and Vice Chairman are not present;
- (bii) dealing with any business required by law to be dealt with first;
- (ciii) confirming as a correct record and signing approve the minutes of the last meeting of the Council, except that minutes of the annual or extraordinary meeting will be submitted for confirmation to the next ordinary meeting of Council;
- (div) the Chairman's announcements;
- (ev) any announcements from the officer advising the Chairman (including apologies for absence);
- (fviii) receiv~~inge~~ any declarations of interest~~s~~ from Members;

- (iv) ~~receive any announcements from the Chairman, Leader, Members of the executive or the head of paid service;~~
- (gvii) ~~receiving and answering questions from, and provide answers to, members of the public in accordance with Rule 10 below;relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;~~
- (hvi) ~~receiving any petitions in accordance with the Petition Scheme at Rule 11 to these rules;~~
- (ixvi) ~~dealing with any business remaining from the last Council meeting in accordance with Rule 9;~~
- (jxvii) ~~receiving reports from the Executive and the Council's committees, including scrutiny committees as appropriate and receiving questions and answers on any of those reports;~~
- (xikviii) ~~_____receiving reports, about and receive questions and answers on the business of joint arrangements and external organisations as appropriate;~~
- (ilxii) ~~considering any motions under Rule 14 in the order in which they are received;~~
and
- (xiim) ~~to 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.~~

3.3 The order of business (except for items (ia), (ib) and (ic) of paragraph 3.2 of these Rules) may be changed:

- (a) before or at a meeting, as the Chairman sees fit; or
- (b) by a resolution of the meeting passed on a motion under Rule 9.

43.0 Extraordinary meetings

43.1 Calling extraordinary meetings.

An extraordinary meeting is one that is additional to the scheduled ordinary meetings and is called to deal with matters that cannot conveniently be dealt with at one of those meetings. An extraordinary meeting will be called for specific purposes, for example, where required to confer an honorary title. Those
~~Those~~ listed below may request the Chief Executive to call Extraordinary Council meetings in addition to ordinary meetings:

- (~~a~~i) the Council by resolution;
- (~~b~~ii) the Chairman of the Council;
- (~~c~~iii) the ~~M~~monitoring ~~O~~fficer;
- (~~d~~iv) Section 151 Officer; and
- (~~e~~v) in accordance with paragraph 3 of Schedule 12 of the Local Government Act 1972 (as amended), any five members of the Council if they have signed a requisition presented to the Chairman of the Council and he or /she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

4.2 Business

Extraordinary meetings will:

- (a) elect a person to preside if the Chairman and Vice Chairman are not present;
- (b) receive any declarations of interest; and

(c) deal with the business for which the extraordinary meeting was called.

54.0 Appointment of substitute members of committees and sub-committees

54.1 Allocation

As well as allocating seats on committees and sub-committees, the Council will allocate seats in the same manner for substitute Members. For ~~c~~Committees or ~~s~~Sub-~~c~~Committees exercising the functions of Development Management, licensing or appeals, only ~~Members~~~~Councillors~~ who have received satisfactory training to enable proper and lawful discharge of the functions may be appointed as substitutes. Up to 6 named substitutes per political group will be permitted for committees, ~~and~~ joint ~~and sub~~-committees having 10 or more members and up to 3 named substitutes per political group for committees, ~~and~~ joint ~~and sub~~-committees having less than 10 members.

5.2 In the case of sub-committees, the appointing committee will determine the number of substitutes and appoint them. Substitute members must be from the same political group as the absent member.

54.23 Powers and duties

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

54.34 Substitution

Substitute Members may attend meetings in that capacity only:

(~~a~~i) to take the place of the ordinary ~~M~~member for whom they are the designated substitute;

- (bii) where the ordinary ~~M~~member will be absent for the whole of the meeting; and
- (ciii) after notification has been given by the absent Member to the Head of Legal and Democratic ~~and Legal~~ Services at least 24 hours before the meeting of the intended substitution. This does not apply to the Development Management Committee where the required notification must be either to the Committee Chairman or the Deputy Leader Executive Member for Development Management and Council Support who, in turn, will notify the Head of Legal and Democratic Services Committee service at least 7 hours before commencement of the Development Management Committee meeting. The duration of the substitution shall form part of the notification.

54.54 The Head of Legal and Democratic Services shall change the standing membership of committees and joint committees in accordance with the wishes of the political groups to whom seats on these committees have been allocated.

~~5.0 — TIME AND PLACE OF MEETINGS~~

~~5.1 — The time and place of meetings will be determined by the Chief Executive and notified in the summons.~~

6.0 Notice of and summons to meetings

6.1 The Proper 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 Proper 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 which~~ 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.

7.0 Chairman of meeting

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

8.0 Quorum

- 8.1 For Council, the quorum of a meeting will be one quarter of the whole number of Members. For committees, joint and sub-committees, the quorum shall be one third of the membership of that body. 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 or /she does not fix a date, the remaining business will be considered at the next ordinary meeting.

9.0 Duration of meeting

- 9.1 Unless the majority of Members present vote for the meeting to continue, any meeting that has lasted until 10.00 p.m. will adjourn on completion of the item being considered. Remaining business will be considered at a time and date fixed by the Chairman. If he or /she does not fix a date, the remaining business will be considered at the next ordinary meeting.

10.0 Questions by the public

10.1 General

Members of the public may ask questions of Mmembers 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 democraticservices@eastherts.gov.uk ~~the Chief Executive~~ no later than noon, two working days before the meeting. Each question must give the name and address of the questioner and must name the Member of the Council to whom it is to be put.

10.4 Number of questions

At any one meeting no person may submit more than one¹ question and no more than one¹ such question may be asked on behalf of one organisation.

10.5 Scope of questions

The ~~Chief Executive~~ Head of Legal and Democratic Services may reject a question if it:

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

10.6 Record of questions

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

~~Copies of all questions will be circulated to all members and will be made available to the public attending the meeting. All questions and answers given will be summarised in the minutes of the meeting.~~

10.7 Asking the question at the meeting

The Chairman will invite the questioner to put the question to the ~~M~~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 10.5 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 ~~M~~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.

11.0 Petitions

11.1 The Council operates a petitions scheme details of which can be found at: <https://www.eastherts.gov.uk/petitions>

11.2 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. Petitions may be submitted in paper form or online.

11.3 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. Local Ward Members may also speak on the subject of the petition.

11.4 If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply.

11.5 Petitions submitted to the council should be accompanied by contact details, including an address, for the petition organiser and must include:

(a) a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take; and

(b) the name and address and signature of any person supporting the petition.

11.6 E-petitions which are created and submitted through the council's website must follow the same guidelines as paper petitions. The petition organiser will need to provide their

name, postal address and email address. The petition organiser will also need to decide how long a petition should be open for signatures.

11.7 E-petitions organised on external websites and referred to the council will also be accepted if in accordance with the above guidelines.

121.0 Questions by Mmembers

121.1 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 or statement by the Leader when that item is being received or under consideration by the Council.

121.2 Questions on notice at ~~full~~ Council

A Member of the Council may ask:

(a) • the Chairman;

(b) • the Leader;

(c) • a Member of the Executive; or

• the Leader; or

(d) • the Chairman of any committee or sub-committee

aA question on any matter in relation to which the cCouncil has powers or duties or which affects the dDistrict.

121.3 Questions on notice at committees and sub-committees

A Member of a committee or sub-committee may ask the Chairman of it a question on any matter in relation to which the cCouncil has powers or duties or which affect the

~~d~~District and which falls within the terms of reference of that committee or sub-committee.

121.4 Notice of questions

A Member may only ask a question under Rule 121.2 or 121.3 if either:

- (a) they have given notice in writing of the question to the ~~Chief Executive~~ Head of Legal and Democratic Services, which has been received not later than noon, two working days before the meeting; or
- (b) the question relates to urgent matters, they have the consent of the ~~C~~chairman to whom the question is to be put and the content of the question is given to the ~~Chief Executive~~ Head of Legal and Democratic Services by noon on the day of the meeting.

12.5 Two Questions per Member

A Member may ask only two questions under 121.2 or 121.3 except with the consent of the Chairman of Council, ~~c~~Committee or ~~s~~Sub-~~c~~Committee.

12.6 Length of Speeches

A Member asking a question under 121.2 and 121.3 and a Member answering such a question shall ensure that the question and the reply is succinct.

12.7 Time Allowed for Questions at Council Meetings

The time allowed for consideration of any questions submitted under 121.2 shall not ~~_, without consent of the Council,~~ exceed 15 minutes unless the Chairman consents to a longer period.

12.8 Any remaining questions shall be responded to in writing before the next ordinary meeting of the Council.

121.95 Response

Every question on notice will be answered without discussion. The Member who is asked the question on notice may ask another Member to answer. An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the cCouncil 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.

124.106 ——— Supplementary question

A Member asking a question under Rule 124.2 or 124.3 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. The Chairman has the right to prevent any Members from asking a protracted supplementary question or giving a protracted answer.

If the Member who gave notice of the question is not present at the meeting, the question shall be noted and the Member to whom the question was asked shall reply.

132.0 Portfolio rReports

132.1 Executive MembersPortfolio Holders may submit portfolio reports to full ——— Council giving information for Members on developments in — each portfolio area since the last report. Members may ask -Executive MembersPortfolio Holder questions without notice on any item in the — portfolio report. A maximum of 10 minutes will be permitted — for questions by Members.

143.0 Motions oOn nNotice

143.1 Notice

Except for motions which can be moved without notice under Rule ~~154~~, written notice of every motion, signed by at least ~~two~~2 Members, must be delivered to the ~~Chief Executive Head of Legal and Democratic Services~~ 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~~ register open to public inspection.

~~143.2~~ 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 ~~M~~member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

~~143.3~~ Scope

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

~~143.4~~ One ~~m~~Motion per Member

No Member may give notice of more than one motion ~~of~~ at any Council meeting, except with the consent of the Chairman.

~~143.5~~ Time Allowed for Motions

~~The time allowed for consideration of motions submitted shall not, without the consent of the Council, exceed 10 minutes.~~

~~Any remaining motions submitted shall be deferred to the next ordinary meeting of the Council and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.~~

~~154.0~~ 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 Mmember 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 10.00 p.m. in duration;
- (n) to suspend a particular council procedure rule;
- (o) to exclude or readmit the public and press in accordance with the Access to Information Rules;
- (p) to not hear further a Mmember named under Rule 224.3 or to exclude them from the meeting under Rule 224.4; and
- (q) to give the consent of the Council where its consent is required by this Constitution.

165.0 Rules of debate

165.1 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.

165.2 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 or /her before it is discussed.

165.3 Secunder's speech

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

165.4 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 five5 minutes without the consent of the Chairman.

165.5 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 or /she last spoke;
- (c) if his or /her first speech was on an amendment moved by another Mmember, to speak on the main

issue (whether or not the amendment on which he or
~~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.

165.6 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.

165.7 Alteration of motion

- (a) A Member may alter a motion of which he or /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 or /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.

165.8 Withdrawal of motion

A Member may withdraw a motion which he or /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.

165.9 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.
- (d) A reply under this paragraph will be confined to matters raised in the debate on the motion or amendment.

(e) After every reply to which this rule refers, a vote will be taken without further discussion.

165.10 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;~~

(c) that the subject of debate:

(i) be referred to the appropriate forum for consideration; or

(ii) be referred back to the appropriate forum for further consideration.

~~(f) to adjourn a meeting;~~

~~(dg)~~ that the meeting continue beyond 10.030 p.m. in duration;

~~(eh)~~ to exclude the public and press in accordance with the Access to Information Rules;

and

~~(fi)~~ to not hear further a Member named under Rule 224.3 or to exclude them from the meeting under Rule 224.4.

Any of the motions under paragraph 16.10 of these Rules will not take away from the mover of the original motion the right to reply.

165.11 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” or “that the question be now put” is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will put the closure motion to the vote. If it is passed, the Chairman will give the mover of the original motion a right of reply and then put the originalprocedural 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.~~
- ~~(cd)~~ 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 or /she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

165.12 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.

165.13 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.

176.0 Previous decisions and motions

176.1 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.

The restrictions contained in 17.1 do not apply to:

- (a) A recommendation contained in a referral from the Executive or any committee to the Council;
- (b) –A recommendation contained in a report presented individually or collectively by Chief Officers.

176.2 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.

187.0 Voting

187.1 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.

187.2 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.

187.3 Show of hands

~~Unless a ballot or recorded vote is demanded under Rules 17.4 and 17.5, T~~he Chairman will take the vote by show of hands, ~~or if there is no dissent, by the affirmation of the meeting asking Members to indicate whether they are for, against or abstain, -unless a ballot or recorded vote is taken in line with Rules 18.4 and 18.5.~~

187.4 Ballots

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

187.5 Recorded vote

If ~~five~~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.

There will also be a recorded vote when required by law. This includes that a recorded vote will be required at a meeting of the Council on motions, amendments or substantive motions relating to the approval of the budget or setting of council tax, whereby there shall be recorded in the minutes the names of the Members who cast a vote for the

motion/amendment or against the motion/amendment or who abstained from voting. As this is a mandatory standing order under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, it cannot be suspended under Council Procedure Rule 24.

187.6 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.

187.7 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.

In the event that the removal of persons jointly having fewest of votes would result in only one candidate remaining (and that candidate does not have a majority), the above provision will not apply and the Chief Executive (or his or her representative) will draw lots to determine which of the candidates with fewest votes will proceed to the next round.

In the event of there being an equality of votes for the final two candidates, lots will be drawn by the Chief Executive (or his or her representative) to decide which person is elected.

198.0 Minutes

198.1 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 and will seek a seconder. The only part of the minutes that can be discussed is their accuracy.

198.2 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.

198.3 Form of minutes

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

2019.0 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.

210.0 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 232 (Disturbance by Public).

221.0 Members' conduct

221.1 Respect for the Chairman **standing**

When the Chairman calls for order ~~stands~~ during a debate, any Member speaking at the time must stop. The meeting must be silent.

221.2 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.

221.3 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.

221.4 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.

232.0 **Disturbance by public**

232.1 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.

232.2 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. The Chairman may without debate or resolution adjourn the meeting to allow removal to take place.

243.0 Suspension and amendment of council procedure rules

243.1 Suspension

All of these Council Rules of Procedure except Rules 18.5, 178.6, ~~and 198.2~~ and 21 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.

243.2 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.

254.0 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 ~~E~~xecutive. Only Rules 45 – 9, 121.3 – 12.6 ~~(part)~~, 154, 187 – 232 and 25 - 26 apply to meetings of committees and sub-committees. ~~Committees and Sub-Committees may elect a Vice Chairman.~~

265.0 Disclosable pecuniary interests

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

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ACCESS TO INFORMATION -PROCEDURE **RULESS**

1.0 Scope

- 1.1 These ~~ruleParagraphs~~ apply to all meetings of the Council, scrutiny committees, ~~area committees (if any), the Standards Committee and~~ regulatory committees, ~~joint committees, sub-committees, panels~~ and public meetings of the ~~E~~executive (together called meetings).

2.0 Additional rights to information

- 2.1 These ~~ruleParagraphs~~ do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3.0 Rights to attend meetings

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these ~~ruleParagraphs~~.
- 3.2 Any person is permitted to film or record any meeting of Council, a Committee, Sub-Committee or the Executive, save where the public have been excluded for the consideration of exempt or confidential business. The ~~ruleParagraphs~~, as prescribed by legislation, will allow for the reporting of meetings via social media of any kind. The ~~c~~Council will provide reasonable facilities to facilitate reporting.
- 3.3 Any person exercising such rights must not disrupt the proceedings. Examples of what will be regarded as disruptive include, but are not limited to, moving outside the area designated for the public, making excessive noise, intrusive lighting/flash or asking a ~~MemberCouncillor~~ to repeat a statement. In addition, members of the public or the public gallery should not be filmed as this could infringe on an individual's right to privacy, if their prior permission had not been obtained. Any person considered being disruptive or filming the public will be requested to cease

doing so by the Chairman and may be asked to leave the meeting.

4.0 Notices of meeting

- 4.1 The cCouncil will give at least five clearworking days' notice of any meeting except where an urgent meeting is convened by posting details of the meeting at Wallfields, Pegs Lane, Hertford, Hertfordshire SG13 8EQ, the designated office.

5.0 Access to agenda and reports before the meeting

- 5.1 The cCouncil will make copies of the agenda and reports open to the public available for inspection on the cCouncil's website and at the designated office at least five clear days before the meeting. If an item is added to the agenda after publication, ~~later,~~ this will be included on a the revised supplementary agenda (where reports are prepared after the summons has been sent out, ~~the The designated Monitoring~~ Officer shall make each such report available to the public as soon as the report is completed and sent to councillors) which will be open to inspection from the time the item was added to the agenda.

6.0 Supply of copies

- 6.1 Agendas, reports and background papers ~~listed with the Executive reports~~ are available to view on the cCouncil's website. The cCouncil will, on request, and for such reasonable charge as is from time to time agreed, supply copies of:-
- (a) any agenda and reports which are open to public inspection;
 - (b) any background papers listed within the reports; and
 - (c) copies of any other documents supplied to MembersCouncillors in connection with an item to any person, on payment of a charge for postage and any other costs, if the Monitoring Officer thinks fit.

~~The Council will supply copies of:~~

- ~~(a) — any agenda and reports which are open to public inspection;~~
- ~~(b) — any further statements or particulars necessary to indicate the nature of the items in the agenda; and~~
- ~~(c) — if the Chief Executive thinks fit, copies of any other documents supplied to councillors in connection with an item~~a~~~~

~~to any person on payment of a charge for postage and any other costs.~~

7.0 Access to minutes documents etc after the meeting

7.1 In addition to publishing information on the cCouncil's website,
~~The cCouncil will make available upon request,~~ copies of the following for six years after a meeting:

- (a) the minutes of the meeting, reports or and records of decisions taken, together with reasons, for all meetings which were opened to the public. of the executive. However where the meetings discussed exempt or confidential information, the minutes open to the public will only include a record of the proceedings and the decision, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information. The cCouncil aims to publish draft minutes of meetings within 5 working days as soon as reasonably practicable following the meeting~~;~~
- (b) records of Executive decisions taken by Individual Executive Members or Officers including the reasons for the decision and any alternative options considered and rejected. They will be published and made available as soon as reasonably practicable after they have been taken.

~~e) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;~~

(c) the agenda for the meeting ~~;~~ ~~and~~

~~(d) reports relating to items when the meeting was open to the public.~~

8.0 Background papers

8.1 List of background papers

The author of the report will set out ~~in~~ in every report a list of those documents (called background papers) relating to the subject matter of the report which in ~~his/her opinion~~ the report author's opinion:

(a) disclose any facts or matters on which the report or an important part of the report is based; and

(b) which have been relied on to a material extent in preparing the report;

but ~~does~~ not include published works or those which disclose exempt or confidential information (as defined in ~~Rule~~ Paragraph 10) ~~and in respect of executive reports, the advice of a political advisor.~~

8.2 Public inspection of background papers

The ~~c~~Council will make available for public inspection for ~~four~~ six years after the date of the meeting, one ~~a~~ copy of each of the documents on the list of background papers.

8.3 Public reports must include not only a list of background papers but at least one copy of each of the documents in the list for public inspection. Arrangements for inspection should be made through Democratic Services Team at the designated office and on the cCouncil's website. ~~contact officer for the report Council's Democratic Services team at the designated officer and on the Council's website.~~

In the case of reports to the Executive, the background papers will be published on the cCouncil's website, subject to RuleParagraph 10 below.

The cCouncil may make a -reasonable charge for access to background papers to be inspected at the cCouncil's offices.

~~9.0 — SUMMARY OF PUBLIC'S RIGHTS~~

~~A written summary of the public's rights to attend meetings and to inspect and copy documents must will be kept at and available to the public at Wallfields, Pegs Lane, Hertford, Hertfordshire SG13 8EQ.~~

910.0 Exclusion of access by the public to meetings

910.1 Confidential information – requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

9.2 Meaning of confidential information

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

910.32 Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed which falls into one of the seven definitions of information that is exempt from disclosure to the public and press -which is at paragraph 9xxx10.4 below.-

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

910.4 Meaning of exempt information

Exempt information means any information falling within the following seven categories (subject to any condition) as defined in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended):

Descriptions of Exempt Information

<u>Category</u>	<u>Condition</u>
<u>1- Information relating to any individual.</u>	
<u>2 -Information which is likely to reveal the identity of an individual.</u>	
<u>3 Information relating to the financial or business affairs of any particular person (including the authority holding that information).</u>	<u>Information is not exempt information if it is required to be registered under:</u> <u>(a) The Companies Act 2006;</u> <u>(b) The Friendly Societies Act 1974;</u> <u>(c) The Friendly Societies Act 1992;</u> <u>(d) The Industrial and Provident Societies Acts 1965 to 1978;</u> <u>(e) The Building Societies Act 1986; or</u> <u>(f) The Charities Act 1993.</u> <u>"Financial and business affairs"</u>

	<u>includes contemplated, as well as past or current activities.</u>
<u>4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority</u>	<u>Employee means a person employed under a contract of service. "Labour relations matters" means any matters specified in section 218(1)(a) to (g) of the Trade Union and Labour Relations (Consolidation) Act 1992. These matters also apply to office holders as to employees.</u>
<u>5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</u>	
<u>6 Information which reveals that the authority proposes:</u> <u>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</u> <u>(b) To make an order or direction under any enactment.</u>	
<u>3 Information relating to the financial or business affairs of any particular person (including the authority holding that information).</u>	<u>Information is not exempt information if it is required to be registered under:</u> <u>(a) The Companies Act 2006;</u> <u>(b) The Friendly Societies Act 1974;</u> <u>(c) The Friendly Societies Act 1992;</u>

<p><u>4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority</u></p> <p><u>5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</u></p> <p><u>6 Information which reveals that the authority proposes:</u></p> <p><u>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</u></p> <p><u>(b) To make an order or direction under any enactment.</u></p> <p><u>7 Information relating to any action or any action proposed</u></p>	<p><u>(d) The Industrial and Provident Societies Acts 1965 to 1978;</u></p> <p><u>(e) The Building Societies Act 1986; or</u></p> <p><u>(f) The Charities Act 1993.</u></p> <p><u>“Financial and business affairs” includes contemplated, as well as past or current activities.</u></p> <p><u>Employee means a person employed under a contract of service. “Labour relations matters” means any matters specified in section 218(1)(a) to (g) of the Trade Union and Labour Relations (Consolidation) Act 1992. These matters also apply to office holders as to employees.</u></p>
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to be taken in connection with the prevention, investigation or prosecution of crime.	
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Notes: (a) Information falling within any of categories 1-7 is not exempt by virtue of that category if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

(b) Information which:- (a) falls within any of categories 1 to 7 above; and (cb) is not prevented from being exempt by virtue of the condition is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

(de) Where the meeting will determine any person's civil rights or obligations, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in that Article.

1. ~~Information relating to any individual.~~
2. ~~Information which is likely to reveal the identity of an individual.~~
3. ~~Information relating to the financial or business affairs of any particular person (including the authority holding that information).~~
4. ~~Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.~~
5. ~~Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.~~
6. ~~Information which reveals that the authority proposes:~~
 - (a) ~~to give under any enactment a notice under or by virtue of which requirements are imposed on a~~

~~person; or~~

~~(b) — to make an order or direction under any enactment.~~

~~7. — Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.~~

~~8. — Qualifications~~

~~— Information is not exempt information if it is required to be registered under:~~

~~(a) — the Companies Act 1985;~~

~~(b) — the Friendly Societies Act 1974;~~

~~(c) — the Friendly Societies Act 1992;~~

~~(d) — the Industrial and Provident Societies Acts 1965 to 1978;~~

~~(e) — the Building Societies Act 1986; or~~

~~(f) — the Charities Act 1993.~~

~~9. — Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.~~

~~10. — Information which:~~

~~(a) — falls within any of paragraphs 1 to 7 above; and~~

~~(b) — is not prevented from being exempt by virtue of paragraph 8 or 9 above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.~~

~~11.— Interpretation~~

~~In Parts 1 and 2 and this Part of this Schedule:~~

~~"employee" means a person employed under a contract of service;~~

~~"financial or business affairs" includes contemplated, as well as past or current, activities;~~

~~"labour relations matter" means—~~

~~(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or~~

~~(b) any dispute about a matter falling within paragraph (a) above;~~

~~and for the purposes of this definition the acts mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;~~

~~"office-holder", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;~~

~~— "registered" in relation to information required to be
— registered under the Building Societies Act 1986,
— means recorded in the public file of any building society
— (within the meaning of that Act).~~

10.0 Exclusion of access by the public to reports

10.1 If the ~~Head of Legal and Democratic Services Monitoring Officer~~ thinks fit, the ~~c~~Council may exclude access by the public to reports which in his or her ~~their~~ opinion relate to items during which, in accordance with ~~Rule Paragraph~~ 10, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

11.0 Application of ~~ruleparagraphs~~ to the ~~E~~executive

11.1 ~~RuleParagraphs s-123 – 239~~ apply to the Executive, its committees and ~~Portfolio HoldersExecutive Members~~.

12.0 Procedures prior to private meetings

12.1 At least 28 days before a private meeting of the Executive:-

- (a) -notice of intention to hold the meeting must be made available at the ~~c~~Council’s offices; and
- (b) that Notice must be published on the ~~c~~Council’s website.

The ~~c~~Council’s Forward Plan will be used to publish notice under this ~~ruleParagraph~~.

12.2 The Notice under ~~paragraph~~ 128.1 must include:

- (a) a statement of the reasons for the meeting being held in private.

~~13.1 At least 28 clear days before a private meeting, the Executive will make available at its offices a notice of its intention to hold the meeting in private and publish that notice on the Council’s website. The notice will include a statement of the reasons for the meeting to be held in private. At least five clear days before a private meeting, the Executive will make available at its offices a further notice of~~

~~its intention to hold the meeting in private and publish that notice on the Council's website. The notice will include~~

~~— a statement of the reasons for the meeting to be held in private;~~

(b) ~~—~~ details of any representations received by the Executive about why the meeting should be open to the public; and

(c) ~~—~~ a statement of its responses to any such representations.

~~12.32~~ Where the date by which a meeting must be held makes ~~—~~ compliance with paragraph 123.1 impracticable, ~~The meeting may only be held in private where the Chief Executive has must obtained~~ agreement from: -

(a) the Chairman of the ~~relevant~~ Overview and Scrutiny Committee; or

(b) if the Chairman of the ~~relevant~~ Overview and Scrutiny Committee is unable to act, the Chairman of the Council;
~~or~~

(c) where there is no Chairman of either the ~~relevant~~ Overview and Scrutiny Committee or of the Council, the Vice-Chairman of the Council, that the meeting is urgent and cannot reasonably be deferred.

~~12.3~~ As soon as reasonably practicable after the ~~Chief~~ Executive has obtained agreement under paragraph 123.32 to hold a private meeting, ~~he or she it they~~ must -

(a) make available at the ~~c~~Council's offices a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and

(b) publish that notice on the ~~c~~Council's website.

13.0 Attendance at private meetings of the ~~E~~xecutive

All Members of the Executive will be served notice of, and are entitled to attend, all private meetings of the Executive. The Chief Executive, the Chief Financial Officer, the Monitoring Officer (or Deputies) and Directors in ~~the~~ light of items to be discussed, or their nominated representatives, at the discretion of the Chief Executive can attend.

13.1 ~~In all of the above examples,~~ The provisions of paragraph ~~xxx~~3.2 (recording and publicising decisions) will apply

14.0 Rights of ~~overview and scrutiny~~non-executive members

14.1 All Members may request to attend a private meeting of the Executive and attendance will be at the Leader's discretion.

14.2 ~~This~~Any request ~~must be complied with and the for~~ documentation ~~will be~~ provided as soon as reasonably practicable, but no later than 10 clear days after the request is made, ~~subject to paragraph 14~~5.3.

14.3 If the ~~Executive~~Cabinet determines that material will not be provided, it must provide the ~~M~~member ~~of the overview and scrutiny committee~~ with a written statement, setting out its reasons for that decision.

15.0 Procedures prior to public meetings

15.1 The ~~c~~Council will give notice of the time and place of a public meeting by displaying it at the ~~c~~Council's offices and publishing it on the ~~c~~Council's website,

- (a) at least five clear days before the meeting; or
- (b) where the meeting is convened at short notice, at the time that the meeting is convened.

15.2 An item of business may only be considered at a public meeting:-

- (a) where a copy of the agenda or part of the agenda including the item has been available for inspection by the public for at least five clear days before the meeting; or

- (b) where the meeting is convened at shorter notice, a copy of the agenda including the item has been available for inspection by the public from the time that the meeting was convened;
- (c) where an item which would be available for inspection by the public is added to the agenda, copies of the supplementary revised — agenda and any report relating to the item for — consideration at the meeting, must be available for inspection by the public when the item is added to the agenda.

16.0 Access to agenda and connected report for —public meetings

- 16.1 A copy of the agenda and every report for a meeting will be made available for inspection by the public at the cCouncil's offices and on the cCouncil's website.
- 16.2 If the Head of Legal and Democratic Services Monitoring Officer thinks fit, there may be excluded from the copy of any report the whole, or any part, ~~of the report~~ which relates only to matters during which, in the opinion of — the Head of Legal and Democratic Services, Monitoring Officer the meeting is likely to be a private meeting.

~~15.3 Any document which is required to be available for inspection by the public must be available from such inspection for at least five clear days before the meeting except that —~~

~~— where the meeting is convened at short notice, a copy of — the agenda and associated reports must be available for — inspection when the meeting is convened; and~~

~~— where an item which would be available for inspection by — the public is added to the agenda, copies of the revised — agenda and any report relating to the item for — consideration at the meeting, must be available for — inspection by the public when the item is added to the — agenda.~~

16.3 A copy of the agenda item or report will not be available for inspection by the public until a copy is available to Members of the Council. Where the whole or of the part of a report for a public meeting is not available for inspection by the public:--

(a) every copy of the whole report or of the part of the report, as the case may be, must be marked "not for publication" and

(b) there must be stated on every copy of the whole or part of the report -

(i) that it contains confidential information; or

(ii) the description of exempt information by virtue of which the Executive is likely to exclude the public during the item to which the report relates.

16.4 Except during any part of a meeting during which the public are excluded, the Council will make available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and of the reports for the meeting.

16.5 Unless they contain confidential or exempt information, following a request made by a member of the public or on behalf of a newspaper and on payment being made of postage, copying or other necessary charge for transmission, the Council will supply to that person or newspaper:--

(a) a copy of the agenda for a public meeting and a copy of each of the reports for consideration at the meeting;

(b) such further statements or particulars, as are necessary to indicate the nature of the items contained in the agenda; and

(c) if the ~~Head of Legal and Democratic Services~~Monitoring Officer thinks fit in the case of any item, a copy of any other document supplied to Members of the Executive in connection with the item.

17.0 Publicity in connection with key decisions; the 'forward plan'

17.1 Where a decision maker intends to make a key decision, the c
Council will publish, a document, known as the 'Forward Plan' -which states: -

- (a) that a key decision is to be made on behalf of the cCouncil;
- (b) the matter in respect of which the decision is to be made;
- (c) where the decision maker is the-an individual Portfolio HolderExecutive Member or officer, that individual'se Portfolio Holder'sExecutive Member's name, and title/portfolio as appropriate, or -if any and where the decision maker is the Executive, its name and a list of its Executive Mmembers;
- (d) the date on which, or the period within which, the decision is to be made;
- (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- (f) the address from, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any documents listed areis available;
- (g) that other documents relevant to those matters may be submitted to the decision maker; and
- (h) the procedure for requesting details of those documents (if any) as they become available.

17.2 At least 28 clear days before a key decision is made, the document must be made available for inspection by the public at the cCouncil's offices and on the cCouncil's website.

17.3 Where, in relation to any matter:--

- (a) the public may be excluded from the meeting at which the matter is to be discussed; or

- (b) documents relating to the decision need not, be disclosed to the public,

the document will contain particulars of the matter but many not contain any confidential or exempt information.

18.0 ~~General~~General exception and special urgency

~~17.1~~ GENERAL EXCEPTION

~~18.1~~ If it is not possible to meet the requirements to give notice of a key decision laid out in paragraph ~~17.2XX~~ above, Subject to RuleParagraph 15, if publication under ruleParagraph 13 above is impracticable, a key decision the making of the key decision can proceed so long as:

may only be made:

where the Head of Legal and Democratic(a) -the ServicesMonitoring Officer has sought and informedreceived in writing the agreement of the Chairman of the relevant Overview and Scrutiny Committee or, in their absence, the Vice Chairman of the Overview and Scrutiny Committee, f there is no such person, each member of the relevant Overview and Scrutiny Committee by notice in writing, to the general exception to the notice requirements of the matter about which the decision is to be; and

~~(b) made in writing of the Where the publication of the intention to make a key decision is ——— impracticable, that decision may only be made—~~

~~where the Head of Legal and Democratic Services has informed the Chairman of the relevant Overview and Scrutiny Committee or, if there is no such person, each member of the relevant Overview and Scrutiny Committee by notice in writing, of the matter about which the decision is to be made;~~

~~where the Head of Legal and Democratic ServicesMonitoring Officer has made available at the Council's council's offices for inspection by the public and has published on~~

the ~~Council's~~ council's website, a copy of the notice of the decision, including the reasons why compliance with the publicity requirement is impracticable; and

(c) ~~after five clear working~~ days have elapsed following the day on which the ~~Head of Legal and Democratic Services~~ Monitoring Officer made available the notice.

~~17.2 As soon as reasonably practicable after the Head of Legal and Democratic Services has issued the notice, the Director will—~~

~~make available at the Council's offices a notice setting out the reasons why compliance with the publicity is impracticable.~~

~~publish that notice on the Council's website.~~

~~18.2~~ Where there is special urgency, the requirement in paragraph 18.1(c) above to give five working days' notice of the key decision may be withdrawn so long as requirements (a) and (b) in paragraph 18.1 above are met. In such cases, the notice of the key decision must include the reasons for the special urgency.

~~18.0 CASES OF SPECIAL URGENCY~~

~~18.1 Where the date by which a key decision must be made, makes compliance with publication of the notice impracticable, the decision may only be made where the decision maker has obtained agreement from—~~

~~the Chairman of the relevant Overview and Scrunity Committee;
or~~

~~or if the Chairman of the relevant Overview and Scrunity Committee is unable to act, the Chairman of the Council;~~

~~where there is no Chairman of either the relevant Overview and Scrutiny Committee or of the Council, the Vice Chairman of the Council.~~

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

~~18.2 As soon as reasonably practicable after the decision maker has obtained agreement of the relevant Chairman that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must—~~

~~make available at the Council's offices a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred; and~~

~~publish that notice on the Council's website.~~

19.0 Recording of Executive decisions made at meetings

19.1 As soon as reasonably practicable after any meeting of the Executive or its Committee~~s~~ at which an executive decision was made, the ~~Head of Legal and Democratic Services~~Monitoring Officer, must ensure that a written statement is produced for every executive decision made which includes the information specified in paragraph ~~19.2~~19.2xxx.

19.2 The statement referred to in paragraph ~~19.1~~19.1xx must include:—

- (a) a record of the decision including the date it was made;
- (b)
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the Executive at the meeting which the decision was made;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any Member of which the decision was made;
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

20.0 Recording of ~~E~~executive decisions made by ~~E~~portfolio holder~~executive M~~members and key decisions made by officers acting under delegated authority

20.1 As soon as reasonably practicable after ~~an Executive Member~~ A Portfolio Holder has made an Executive decision ~~or an officer has made a key decision,~~ ~~which must not be made until after a notice has been published within the Forward Plan for at least 28 clear days containing~~ the following details: the ~~Portfolio Holder~~ Executive Member will produce or instruct the Head of Legal and Democratic Services Monitoring Officer ~~to will~~ produce a written statement of that Executive decision which ~~should~~ included the information specified in paragraph 20.2.

20.2 The Statement referred to in paragraph 20.1 must include:—

- (a) ~~T~~that a key decision ~~is to be~~has been made and details of the matter excluding any confidential or exempt information ~~as referred to in Rule~~Paragraphs XXX;
- (b) ~~...a record of the decision including~~ the date it was made;
- (c) ~~a record of~~ the reasons for the decision;
- (d) details of any alternative options considered and rejected by the ~~Portfolio Holder~~ Executive Member ~~decision maker~~ ~~ing~~ when making the decision;
- (e) a record of any conflict of interest declared by any Executive Member who ~~was~~ is consulted ~~by the Portfolio Holder which in relation to the~~ related to the decision; and
- (f) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

21.0 ~~Recording of other~~ decisions by officers

~~12.1~~ Written Record

21.1 Officer decisions of a significant nature, though not executive decisions made under delegated authority nor meeting the criteria for a key decision, should be recorded in writing ~~A written record must be produced,~~ as soon as reasonably practicable, after ~~a~~ the

~~decision has been made, which was delegated to an Officer by Council, a Committee or Sub-Committee either:~~

~~(a) under an express authorisation; or. Such decisions are likely to be significant within the meaning of this rule where they:~~

~~(a) (b) a general authority to take decisions which grant a permission or licence; or~~

~~(b) , affect an individual's rights; or~~

~~(c) award a contract; or~~

~~(d) incur expenditure at a level which does not render it a key decision but would reasonably be expected to , which in either case, materially affects the Council's council's finances; or~~

~~(e) may be reasonably expected to have an impact on the council's reputation.;~~

~~12.2 Prescribed Format~~

~~21.2 The written record must be in the prescribed format approved by the Monitoring Officer and Democratic Committee Services and contain the following information:~~

~~(a) (a) the date the decision was made;~~

~~(b) a record of the decision taken along with the reasons for the decision;~~

~~(c) details of alternative options, if any, considered and rejected; and~~

~~(d) where relevant, any conflicts of interest declared.~~

~~12.3 Public Inspection of Decision and Background Papers~~

~~The Officer making the decision must ensure that the written record and background papers are made available for inspection by the public and published on the Council's website.~~

~~21.0 RECORDING OF EXECUTIVE DECISIONS MADE BY OFFICERS~~

~~21.1 As soon as reasonably practicable after an officer has made a decision which is an Executive decision, the officer will produce a written statement which must include—~~

~~a record of the decision including the date it was made;~~

~~a record of the reasons for the decision;~~

~~details of any alternative options considered and rejected by the officer when making the decision;~~

~~a record of any conflict of interest declared by any Executive Member who is consulted by the officer which relates to the decision; and~~

~~in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.~~

22.0 Inspection of documents following Executive decisions

22.1 Unless they contain confidential or exempt information, after a meeting of the Executive or its Committees at which an Executive decision has been made, or after an Executive Member Portfolio Holder or an officer has made an Executive decision the Head of Legal and Democratic Services Monitoring Officer must ensure that a copy of:—

(a) any record of the decision; and

(b) any report considered at the meeting or, considered by the Portfolio Holder Executive Member or officer and relevant to a decision record or, where only part of the report is relevant to such a decision, that part,

(b)

must be available for inspection by members of the public as soon as is reasonably practicable, at the Council's offices, and on the Council's website.

22.2 Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection, those

documents will be supplied for the benefit of the newspaper by the [c](#)Council on payment by the newspaper of postage, copying or other necessary charge for transmission.

~~23.0 INSPECTION OF BACKGROUND PAPERS~~

~~23.1 When a copy of the whole or part of a report for a meeting is made available for inspection by members of the public, at the same time—~~

~~a copy of a list of the background paper to the report or part of the report, must be included in the report or, as the case may be, part of the report; and~~

~~at least one copy of each of the documents included in that list, must be available for inspection by the public at the Council's offices and on the Council's website.~~

23.0 Additional rights of access to documents for [M](#)members of local authorities

23.1 Subject to paragraphs [243.51 to 243.6](#), any document which

- (a) is in possession or under the control of the Executive; and
- (b) contains material relating to any business to be transacted at a public meeting,

will be available for inspection by any Member of the Council.

23.2 Any document which is required by paragraph [23.3](#)~~24.1xxx~~ to be available for inspection by any Member of the Council -must be available for such inspection for at least five clear days before the meeting except that: -

- (a) where the meeting is convened at shorter notice, such as a document must be available for inspection when the meeting is convened; and

- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available under paragraph 234.1 in relation to that item, must be available for inspection when the item is added to the agenda.

23.3 Subject to paragraphs 234.5 to 234.6, any document which: -

- (a) is in the possession or under the control of the Executive; and
- (b) contains material relating to:—
 - (i) any business transacted at a private meeting;
 - (ii) any decision made by an Executive Member ~~Portfolio Holder~~;
 - (iii) any decision made by an officer in accordance with Executive arrangements,

must be available for inspection by any Member of the Council when the meeting concludes or where an Executive decision is made by an Executive Member ~~Portfolio Holder~~ or an _____ officer immediately after the decision has been made.

23.4 Any documents which is required by paragraph 234.3 to be available for inspection by any Member must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.

23.5 Paragraphs 243.1 and 243.3 do not require a document to be available for inspection if it appears to the Monitoring Officer ~~Head of Legal and Democratic Services~~ that it discloses exempt information.

23.6 Notwithstanding paragraph 243.5, paragraphs 243.1 and 243.3 do require the document to be available for inspection if the information:—

- (a) relates to the financial or business affairs of any particular person (including the authority holding that information) (except to the extent that the information relates to any terms proposed or to be proposed by or to the cCouncil in the course of negotiations for a contract); or
- (b) reveals that the authority proposes:
 - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (ii) to make an order or direction under any enactment.

23.7 These rights are in addition to any other rights that a Member may have.

~~24.0~~ ~~ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF OVERVIEW AND SCRUTINY COMMITTEES~~

~~.1~~ Subject to paragraph 25.3 a Member of an Overview and Scrutiny Committee is entitled to a copy of any document which—

~~is in the possession or under the control of the Executive; and~~

~~contains material relating to—~~

~~(i) any business that has been transacted at a meeting of the Executive or its Committee;~~

~~(ii) any decision that has been made by a Portfolio Holder in accordance with executive arrangements; or~~

~~(iii) any decision that has been made by an officer in accordance with executive arrangements.~~

~~25.2~~ Subject to paragraph 25.3, where a Member of an Overview and Scrutiny Committee requests a document which falls within paragraph 25.1, the Executive must provide that document as soon as reasonably

~~practicable and in any case no later than 10 clear days after the Executive receives the request.~~

~~25.3 No Member of an Overview and Scrutiny Committee is entitled to a copy of any such document or part of a document as contains exempt or confidential information unless that information is relevant to—~~

~~(a)—an action or decision that a Member is reviewing or scrutinising; or~~

~~(b)—any review contained in any programme of work of such a Committee or Sub-Committee of such a committee~~

~~25.4 Where the Executive determines that a member of an Overview and Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out in paragraph 25.1 or 25.3, it must provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.~~

~~16.1 When an Overview and Scrutiny Committee can require a Report
If the relevant overview and scrutiny committee thinks that a key decision has been made and was not:~~

~~(a) included in the Forward Plan; or~~

~~(b) the subject of the general exception procedure; or~~

~~(c) the subject of an agreement under Rule 15;~~

~~the Committee, by resolution at one of its meetings, may require the Executive Cabinet to submit a report to full Council, within such reasonable time as the Committee specifies. The report to Council must include details of the decision, the decision maker and reasons why the Executive Cabinet are of the opinion that the decision was not a key decision. The power to require a report rests with the Committee but may also be exercised by the Proper Officer on receipt of a written request, providing valid reasons to do so, from five members of the Committee.~~

~~16.2 Reports on Special Urgency Decisions~~

~~The Leader will submit a report to the next practicable ordinary meeting of Council on Executive Cabinet decisions or executive decisions taken by individual Executive Members or Officers where the making of the decision was agreed as urgent in accordance with Rule 15 since the last such report. The report will include the number of decisions made, the particulars of each decision made and a summary of the matters in respect of which those decisions were made.~~

~~26.0 REPORTS TO THE LOCAL AUTHORITY WHERE THE KEY DECISION PROCEDURE IS NOT FOLLOWED~~

~~26.1 Where an Executive decision has been made and~~

~~was not treated as being a key decision; and~~

~~a relevant Overview and Scrutiny Committee is of the opinion that
the decision should have been treated as a key decision;~~

~~that Overview and Scrutiny Committee may require the Executive
which is responsible for the decision to submit a report to the
Council within such reasonable period as the Committee may
specify.~~

~~26.2 A report under paragraph 26.1 must include details of~~

~~the decision and the reasons for the decision;~~

~~the decision maker by which the decision was made; and~~

~~if the Executive are of the opinion that the decision was not a key
decision, the reasons for that opinion.~~

~~27.0 EXECUTIVE REPORTS TO THE LOCAL AUTHORITY~~

~~27.1 The Leader shall submit to the Council a report containing details of each executive decision taken during the period since the last report was submitted to the Council where the making of the decision was agreed as urgent.~~

~~27.2 A report submitted for the purposes of paragraph 27.1 must include~~

~~particulars of each decision made; and~~

~~a summary of the matters in respect of which each decision was
made.~~

~~27.3 The Leader shall submit a least one report under paragraph 27.1 annually to the Council.~~

~~28.0 INSPECTION AND SUPPLY OF DOCUMENTS~~

~~28.1 Any document relating to decisions of the Executive or its Committees or a Portfolio Holder required to be open to inspection by members of the public will be available for inspection—~~

~~at all reasonable hours at the Council's offices;~~

~~on the Council's website; and~~

~~in the case of background papers on payment of a reasonable fee required by the Council by the person seeking to inspect the documents at the offices of the Council.~~

~~29.0 ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE~~

~~29.1 All Members of the executive will be served notice of all private meetings of committees of the executive, whether or not they are Members of that committee.~~

~~29.2 All Members of the executive are entitled to attend a private meeting of any committee of the executive.~~

~~29.3 The head of the paid service, the chief financial officer and the monitoring officer, and their nominees are entitled to attend any meeting of the executive and its committees. The executive may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place.~~

~~29.4 A private executive meeting may only take place in the presence of the Chief Executive or his/her nominee with responsibility for recording and publicising the decisions~~

~~29.5 In all of the above examples, the provisions of paragraph 19 (recording and publicising decisions) will apply.~~

24.0 Document retention schedule

25.1 The [cCouncil](#)'s document retention schedule can be found on the
[cCouncil's website](#). ~~at:~~

~~www.eastherts.gov.uk/intranet/documentretention~~

BUDGET AND ~~POLICY FRAMEWORK~~POLICY FRAMEWORK PROCEDURE RULES

1.0 The framework for executive decisions

- 1.1 The Council will be responsible for the adoption of its budget and ~~policy framework~~Policy Framework as set out in ~~Article~~Chapter 4. Once a budget or a ~~policy framework~~Policy Framework is in place, it will be the responsibility of the executive to implement it.

2.0 Process for developing the ~~policy framework~~Policy Framework

- 2.1 Normally, in the development of the ~~policy framework~~Policy Framework, the Executive will liaise with the Overview and Scrutiny Committee and the ~~Performance and Audit Governance~~Performance, Audit and Governance Scrutiny Committee ~~Scrutiny Committee~~ to ensure that matters can be given proper consideration as part of the work programmes of these Committees.

- 2.2 However, the formal process by which the ~~policy framework~~Policy Framework shall be developed is as follows.

- 2.3 Prior to Executive consideration:

- (a) ~~(a)~~ — The Executive will publicise, by including in a ~~Decisions Plan~~the Forward Plan and/or by other methods, a timetable for making proposals to the Council for the adoption of any new or significantly revised policy or strategy that forms part of the ~~policy framework~~Policy Framework. Where consultation on a draft policy is due to take place, ~~the~~the Forward Plan will also set out the timetable for Executive consideration of the draft for consultation; and-

~~Consultation on draft policies~~

- (b) regarding consultation on draft policies, ~~W~~where a policy is to be consulted on in draft form, the Overview and Scrutiny

Committee and Performance, ~~and~~ Audit and Governance Scrutiny Committee may wish to investigate, research or report in detail with policy recommendations before the end of the consultation period.

2.4 Preparation of final proposals by Executive

2.4.1 ~~(a)~~—At the end of any consultation period, the Executive will approve its own final proposals for submission to Council. These proposals will have regard to the responses to any consultation and will take into account any response or proposals from the Overview and Scrutiny Committee or Performance, ~~and~~ Audit and Governance Scrutiny Committee. Its report to Council will reflect the comments made by consultees and/or the Committees and the Executive's response.

2.4.2 ~~(b)~~—The Council will consider the proposals of the Executive and may:-

~~(ia)~~ adopt them;

~~(iib)~~ amend them;

~~(iiic)~~ refer them back to the Executive for further consideration;

or

~~(ivd)~~ substitute its own proposals in their place.

2.4.3 ~~(c)~~—In considering the matter, the Council shall have before it the Executive's proposals and any report from Overview and Scrutiny Committee or Performance ~~and~~ Audit, Governance Scrutiny Committee.

~~(e)~~

2.4.4 T(i)—the Council's decision will be published on the Council's website and drawn to the attention of the Leader.

2.4.5 T(ii)—the notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council

accepts the Executive's proposals without amendment).
Alternatively, ; or

(iii) — if the Executive's proposals are not accepted without amendment, the decision must inform the Leader of any objections which the Council has and require the Executive to reconsider, in the light of those objections, the proposals submitted to it.

2.4.6 (iv) — tThe Council's decision will become effective on the expiry of ~~five~~5 clear days after the publication of the notice of decision, unless the Leader objects to it in that period.

2.4.7 (d) — If the Leader objects to the decision of the Council, he/ or she shall give written notice to the Chief Executive to that effect prior to the date upon which the decision is to be effective. The written notification must either:-

(ia) submit a revision of the proposals as amended by the Executive (the "revised proposals"), with the Executive's reasons for any amendments made to the proposals, to the Council for the Council's consideration; or

(ib) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.

2.4.8 (e) — Where such notification is received, the Chief Executive shall refer the matter to the next ordinary meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting. The Chief Executive may call an extraordinary meeting of Council if the matter is too urgent to await the next ordinary meeting.

2.4.9 (f) — At that Council meeting, the decision of the Council shall be reconsidered in the light of the revised proposals or the objections, which shall be available in writing for the Council.

2.4.10 (g) — The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with ~~Part 2, Article~~Chapter 4 of this Constitution and shall be implemented immediately.

2.4.11 (h) — In approving the ~~policy framework~~Policy Framework, the Council will also specify the degree of in-year changes to the ~~policy framework~~Policy Framework which may be undertaken by

the Executive. Any other changes to the budget and ~~policy framework~~Policy Framework are reserved to the Council.

3.0 Process for developing the budget framework

3.1 There will be a process for financial planning. :-

—The Executive shall prepare and adopt a timetable to accomplish these objectives that should incorporate consideration of:-

(ia) ~~A~~an early assessment of assumptions that will be used in the drafting of the forthcoming budget, taking account of financial issues that may have a significant impact on the medium term financial situation of the ~~C~~council;:-

(iib) ~~A~~an overview of the financial position in the coming financial year following publication of the settlement details of the anticipated funding from Central Government; and:-

(iiic) ~~D~~detailed consideration of items of growth or potential savings.

3.2 —Prior to Executive consideration, :-

3.2

3.2 ~~T~~he Executive will publicise, by including in the ~~Decisions Plan~~Forward Plan and/or by other methods, a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and ~~policy framework~~Policy Framework, and its arrangements for consultation. The Chairman of the Overview and Scrutiny Committee and ~~Performance and Audit Governance~~Performance, Audit and Governance Scrutiny Committee will be notified. The consultation period shall in each instance be not less than six weeks.:-

3.3 If either ~~c~~Ccommittee wishes to respond to the Executive in that consultation process then it may do so. As both ~~C~~committees have responsibility for fixing their own work programme, it is open to either ~~C~~committee to investigate, research or report in detail with policy recommendations before the end of the consultation period.

3.4 (iii) — If both ~~C~~committees wish to respond to the Executive, a joint meeting of the scrutiny committees may be called.

3.5 (c) — Preparation for the formal budget meeting shall be as follows.:-

3.5.1 (i) — The Council will hold its formal budget meeting in February or March when the Executive will present proposals to Council.

(ii) — 3.5.2 The budget proposals presented by the Executive will have~~ing~~ taken consideration of the views of the public, staff, members of the Overview and Scrutiny Committee and ~~Performance and Audit Governance Committee~~Performance, Audit and Governance Scrutiny Committee and other consultees.

(iii) — 3.5.3 All potential amendments to the budget must be assessed for their financial implications prior to the Council meeting to comply with Financial Procedures. To avoid any problems arising from this requirement, all proposed amendments to the budget will therefore be notified in advance to the Chief Executive and ~~S151 Officer~~Chief Financial Officer.

(iv) — 3.5.4 At the budget meeting, the Council will decide on the budget for the forthcoming year and formally adopt this, satisfying any statutory requirements so that all income due to the ~~C~~council and its preceptors can be collected.

4.0 -Decisions outside the budget and ~~policy framework~~Policy Framework

4.1 (a) Subject to the provisions of Rule 6 ~~below~~, the Executive, committees of the Executive, individual members of the Executive and any officers, or joint arrangements discharging Executive functions may only take decisions which are in line with the budget and ~~policy framework~~Policy Framework.

4.2 If any of these bodies or persons wishes to make a decision which is contrary to policy, or contrary to or not wholly in accordance with the budget approved by the Council, then that decision may only be taken by the Council, subject to Rules 5 and 7 below.

4.23 (b) If the Executive, committees of the Executive, individual members of the Executive and any officers, or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and the ~~S151~~Chief Financial Officer as to whether the decision they want to make would be contrary to policy, or contrary to or not wholly in accordance with the budget.

4.34 (c) If the advice of either of those officers is that the decision would not be in line with the existing budget and ~~policy framework~~Policy Framework, then the decision must be referred to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 5 (Urgent decisions outside the budget and ~~policy framework~~Policy Framework) shall apply.

5.0 -Urgent decisions outside the budget and ~~policy framework~~Policy Framework

5.1 (a) —The Executive, a committee of the Executive, an individual member of the Executive or officers, or joint arrangements discharging Executive functions may take a decision which is contrary to policy or contrary to or not wholly in accordance with the budget if the decision is a matter of urgency. However, the decision may only be taken if:-

(ia) it is not practical to convene a quorate meeting of the Council. ~~The reasons for not being able achieve a quorum must be recorded;~~

and

(bii) the Chairman of the Overview and Scrutiny Committee agrees in writing that the decision is a matter of urgency. ~~This must be recorded in writing. In the absence of the Chairman of the Overview and Scrutiny Committee the consent of the Vice-Chairman will be sufficient;~~

~~The reasons why it is not practical to convene a quorate meeting of the Council and the chairman of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision.~~

In the absence of the Chairman of the Overview and Scrutiny Committee the consent of the Vice-Chairman will be sufficient.

and

(ciii) the Council's Financial Procedure Rules are complied with in all other respects.

5.2 Following the decision, the decision maker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

6.0 Virement

6.1 (a) The Council shall have sufficient budget heads to enable service delivery and effective budgetary control in line with the Council's budget and policy framework.

6.2 (b) Steps taken by the Executive, a committee of the Executive, an individual member of the Executive or officers, or joint arrangements discharging Executive functions to implement Council policy shall not exceed the budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads – as follows:-

(ai) the Executive — non-recurring expenditure of up to £50,000 in any one case within budget allocations to functions which are the responsibility of the Executive;

(bii) Executive Members (Portfolio Holders) — non-recurring expenditure of up to £50,000 in any one case within budget allocations to functions which are the responsibility of the Executive Member; virement will also require the agreement of the Leader;

(ciii) authorised officers:-

(ia) provided that it does not constitute a Key Decision, Chief Officers and Assistant Directors be authorised to undertake virements of up to £25,000 on behalf of the Executive in any one case between the budgets under

their control, subject to consultation with the relevant ~~Portfolio Holder~~Executive Member(s) and the Leader and the ~~S154~~Chief Financial Officer; such virements should be non-recurring and must not include asset rental or fixed percentage maintenance budgets, interest income or recharges which have implications elsewhere in the budget, and must be confirmed in writing to the ~~S154~~Chief Financial Officer in a format approved by him/her and reported to Executive via budget monitoring reports; and

(iib) in the case of budgets allocated to the control of a ~~C~~committee, Chief Officers and ~~Assistant~~Directors be authorised to undertake virements of up to £5,000 in any one case between the budgets under their control, subject to consultation with the ~~C~~committee ~~C~~chairman and the ~~S154~~Chief Financial Officer; such virements must not have implications elsewhere in the budget, and must be confirmed in writing to the ~~S154~~Chief Financial Officer in a format approved by him/her and reported to the Committee via budget monitoring reports.

6.3 Any in year unplanned contributions from reserves exceeding £10,000 will need to be approved by Executive; those at the year end are seen by Council as part of approving the Council's financial statements.

7.0 In-year changes to budget and ~~policy framework~~Policy Framework

7.1 The responsibility for agreeing the budget and ~~policy framework~~Policy Framework lies with the Council, and decisions by the Executive, a committee of the Executive an individual member of the Executive or officers, or joint arrangements discharging Executive functions must (subject to Rule 5) be in line with that framework. No changes to the budget and ~~policy framework~~Policy Framework may be made by those bodies or individuals except those changes:-

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) which are necessary to implement a budget decision made by the Council;

- (c) necessary to ensure compliance with the law, ministerial direction or government guidance where there is no discretion how to act; or
- (d) in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

8.0 Call-in of decisions outside the budget and ~~policy framework~~Policy Framework

8.1 ~~(a)~~ —Where **the Overview and Scrutiny Committee** is of the opinion that an executive decision is, or if made would be, contrary to policy, or contrary to or not wholly in accordance with the budget, then it shall seek advice ~~from~~ the Monitoring Officer and/or ~~S151~~Chief Financial Officer.

8.2 ~~(b)~~ —The Monitoring Officer's report and/or ~~Chief Financial S151~~ Officer's report shall be to the Executive with a copy to every ~~Mm~~ember of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's report. The Executive must prepare a report to:-

~~(ia)~~ the Council if the Monitoring Officer or the ~~Chief Financial S151~~ Officer conclude that the decision was a departure; and

~~(bii)~~ the Overview and Scrutiny Committee if the Monitoring Officer or the ~~Chief Financial S151~~ Officer conclude that the decision was not a departure.

8.3 ~~(c)~~ —If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the ~~Chief Financial S151~~ Officer is that the decision is or would be contrary to policy or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to the Council. In such cases, no further action will be taken in respect of the decision or its implementation

until the Council has met and considered the matter. The matter will be referred to the next ordinary meeting of the Council except in cases of urgency when an extraordinary meeting will be called. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial S151 Officer. The Council may either:-

- (ia) endorse a decision or proposal of the Executive decision maker as falling within the existing budget and ~~policy framework~~Policy Framework. In this case no further action is required; or
- (bii) amend the Council's Financial Procedure Rules or policy concerned and agree to the decision with immediate effect; or
- (ciii) accept the decision or proposal is contrary to policy or contrary to or not wholly in accordance with the budget, and not amend the existing framework to accommodate it, but require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/ Chief Financial S151 Officer.

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

~~The executive will publicise a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The Chairmen of the Scrutiny Committees will also be notified.~~

~~At the end of that period, the executive will then draw up firm proposals having regard to the responses to that consultation. If the Scrutiny Committees wishes to respond to the Executive in that consultation process then it may do so. As the Scrutiny Committees have responsibility for fixing their own work programme, it is open to them to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Executive will take any response from a Scrutiny Committee into account in drawing up firm proposals for submission to the Council and its report to~~

~~Council will reflect the comments made by consultees and the Executive's response.~~

~~Once the Executive has approved the firm proposals, the Chief Executive will refer them at the earliest opportunity to the Council for decision.~~

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~~Where the Council has any objections to the proposals, it must take the action set out in (e) below.~~

~~Before the Council:~~

~~amends the proposals;~~

~~approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any proposals (whether or not in the form of a draft) of which any part is required to be so submitted; or~~

~~adopts (with or without modification) the proposals~~

~~it must inform the Leader of any objections which it has and must give him/her instructions requiring the Executive to reconsider, in the light of those objections, the proposal which was submitted to it.~~

~~Where the Council gives instructions in accordance with~~

~~(e) above, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives from the Chief Executive the instructions on behalf of the Executive within which the Leader may:~~

~~submit a revision of the proposal as amended by the Executive (the "revised proposals"), with the Executive's reasons for any amendments to the Council for the Council's consideration; or~~

~~inform the Council of any disagreement that the Executive has with any of the Council's objections together with its reasons for any such disagreement.~~

~~When the period specified by the Council, referred to in (f) above, has expired, the Council must, when:~~

~~amending the proposal or, if there is one, the revised proposal;~~

~~approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any proposal (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or~~

~~adopting (with or without modification) the proposal~~

~~take into account any amendments, representations or observations made by the Executive together with the reasons for them, submitted within the period specified.~~

~~Subject to paragraph (l) below, where, before 8 February in any financial year, the Executive submits to the Council for its consideration in relation to the following financial year:~~

~~estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 of the Local Government Finance Act 1992 (the 1992 Act);~~

~~estimates of other amounts to be used for the purposes of such a calculation;~~

~~estimates of such a calculation~~

~~and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in (i) below.~~

~~Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in (h) above, it must inform the Leader of any objections which it has to the Executive's estimates or amounts and must give to him/her instructions requiring the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the~~

~~Council's requirements.~~

~~When the Council give instructions in accordance with (i) above, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives from the Chief Executive the instructions on behalf of the Executive within which the Leader may:~~

~~submit a revision of the estimates or amounts as amended by the Executive (“revised estimates or amounts”), which have been reconsidered in accordance with the Council’s requirements, with the Executive’s reasons for any amendments made to the estimates or amounts to the Council for the Council’s consideration; or~~

~~inform the Council of any disagreement that the~~

~~Executive has with any of the Council’s objections and the Executive’s reasons for any such disagreement.~~

~~When the period specified by the Council, referred to in (j) above has expired, the Council must take into account, when making the calculations (whether originally or by way of substitute) in accordance with the sections referred to in (h) above:~~

~~any amendments to the estimates or amounts that are included in any revised estimates or amounts;~~

~~the Executive’s reasons for those amendments;~~

~~any disagreement that the Executive has with any of the Council’s objections; and~~

~~the Executive’s reasons for that disagreement~~

~~which the Leader submitted to the Council or informed the Council of within the period specified.~~

~~(h) to (k) above shall not apply in relation to calculations or substitute calculations which the Council may be required to make in accordance with section 52I, 52T and 52U of the 1992 Act.~~

~~2.2 — In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and the degree of in-year changes to the policy framework which may be undertaken by the Executive, in accordance with paragraph 5 and 6 of these rules. Any other changes to the budget and policy framework are reserved to the Council.~~

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EXECUTIVE PROCEDURE RULES

1.0 How does the executive operate??

1.1 ~~Who may make Executive decisions~~Executive functions?

The Executive is the council's executive body and is responsible for carrying out those functions which by law or under this constitution are designated as 'executive functions'.

1.2 The Leader decides how the ~~Executive~~ executive functions shall be discharged. This may be by:

- (a) the Executive as a whole;
- (b) a ~~Committee~~ committee of the Executive;
- (c) an individual Member of the Executive;
- (d) an officer;
- (e) an area ~~Committee~~ committee;
- (f) joint arrangements; or
- (g) another local authority.

1.2-3 Delegation by the Leader

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by him or /her for

inclusion in the Council's scheme of delegation at Part 3 to this Constitution. - The document presented by the Leader will contain the following information about executive functions in relation to the coming year:

- (a) the size of the Executive;
- (b) the names, addresses and wards of the people appointed to the Executive by the Leader;

- (c) the name, address and ward of the person appointed to be the Deputy Leader;
- (d) the extent of any authority delegated to Executive Members individually, including details of the limitation on their authority;
- (e) the terms of reference and constitution of such ~~Executive~~ cCommittees of the Executive as the Leader appoints and the names of Executive Members appointed to them;
- (f) the nature and extent of any delegation of ~~Executive~~ executive functions to ~~area-area Committees~~ committees, any other authority or any joint arrangements and the names of those Executive Members appointed to any joint committee for the coming year; and
- (g) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

~~1.3.4~~ Further dSub-d delegation of executive functions

~~1.4.1.4.1~~ (a)(a) ~~Where the Any~~ Executive, a committee of the Executive or an individual function which is the responsibility of a Mmember of the Executive is responsible for an executive function, they may further delegate the exercising of that executive function or Members may be delegated, for example, to an officer or via joint arrangements unless where disallowed by law.-

~~1.4.1.4.2~~ (b)(b) ~~Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.~~

~~1.4.5~~ The ~~Cc~~ouncil's scheme of delegation and executive functions

~~1.5.1.5.1~~ (a) ~~The c~~ Council's scheme of delegation will be subject to adoption by the Council and the Executive. It will contain the details required in ~~Article-Chapter~~ 7 and set out in Part 3 of this Constitution.

1.5.2

~~1(b)~~ The Leader may amend the scheme of delegation relating to Executive functions at any time during the year by giving written notice to the Monitoring Officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation and whether it entails the withdrawal of delegation from any person, body, committee or the Executive as a whole. The appropriate amendments to the constitution will be made by the Monitoring Officer.— This will have immediate ~~effect~~ effect ~~but and~~ the change(s) will be referred to Council annually within the Constitution.

1.5.3 (c) — When the Executive seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when the Leader has served it on the chairman of the committee.

1.5-6 Conflicts of Interest

~~1.6.1.6.1 (a)(a)~~ Where any or all members of the Executive has or have a ~~the Leader has a~~ conflict of interest this should be dealt with as set out in the ~~Council's~~ council's Code of Conduct for Members in Part 5 of this Constitution.

1.6.2 ~~1(b)(b)~~ — ~~If every Member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.~~

~~(c)~~ — If the exercise of an Executive executive function has been delegated to a ~~Committee~~ committee of the Executive, an individual Member or an officer, and ~~should a~~ conflict of interest arises, then the function will be exercised in the first instance by the person or body by whom who made the delegation ~~was made and/or otherwise if so specified as set out in the Council's~~ council's Code of Conduct for Members in Part 5 of this Constitution.

1.6-7 Executive meetings – when and where?

1.7.1 ~~1.7.(a)~~ The Executive will meet at least ~~6~~ five times ~~per a~~ year at times to ~~be~~ agreed by the Leader. The Leader has the ability to cancel meetings of the Executive.

1.7.2 ~~1.7.2(b)~~ The Executive shall meet at the ~~c~~ Council's offices at Wallfields, Pegs Lane, Hertford, Hertfordshire or another location to be agreed by the Leader.

1.73 ~~1.7.3(c)~~ Notice of the dates and times of meetings, and their agendas, will be published in accordance with the Access to Information Procedure Rules.

1.87 Quorum

The quorum for a meeting of the Executive ~~, or a Committee of it,~~ shall be ~~4~~ a majority of the Members ~~members~~ of the Executive. The quorum of any committee of the Executive shall be a majority of the Members appointed to that committee.

1.8-9 How are decisions to be taken by the Executive?

1.9.1 ~~1.9.1(a)(a)~~ — Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.

1.9.2 ~~1.9.2(b)(b)~~ — Where ~~an Executive~~ executive decision ~~iss~~ are delegated to a ~~Committee~~ committee of the Executive, the rules applying to ~~Executive~~ executive decisions taken by them shall be the same as those applying to those taken by the ~~executive~~ Executive as a whole.

2.0 — DECISION-MAKING

2.1 — Key decisions

~~Key decisions shall only be taken at a meeting of the Executive
(ie not by the Leader or a Portfolio Holder or an officer).~~

~~How key decisions are made~~

~~Prior to any key decision being taken, Scrutiny will be given the opportunity to consider the item, unless it is an urgent item (as defined in paragraph 16 of the Access to Information Rules). The Scrutiny Committee will receive a full report on the item and consider it before the meeting of the Executive where the decision is to be taken, if requested by the Chairman of the Scrutiny Committee. The Executive shall take account of the views of the Scrutiny Committee in reaching its decision.~~

~~2.3 Portfolio Holder (non key) decisions~~

- ~~(a) The Leader and Portfolio Holders are authorised to take executive decisions on all non-key matters within their respective portfolios, subject to the matter being considered by Members through intranet discussion.~~
- ~~(b) Before taking any non-key decisions, the Leader or Portfolio Holder must consult all Members. A full report on the non-key decision shall be posted on the intranet and Members may respond within 7 working days.~~
- ~~(c) All decisions will be recorded and signed off by the Leader or Portfolio Holder. Where a request is made for further information, the decision may be deferred for the information to be supplied.~~

~~2.4 Other (non key) executive decisions~~

~~Within its terms of reference, the Executive is authorised to make~~

- ~~(a) decisions which are not key decisions and do not fall within the portfolios of the Leader or any Portfolio~~

~~Holder or their respective delegations or the delegation to any officer; and~~

- ~~(b) decisions on matters which, whilst falling within a portfolio or delegation, the Chief Executive or other chief officers think it more appropriate to put on the Executive agenda for decision.~~

~~2.5 Portfolio Holder Decisions: Supplemental Rules~~

~~The following additional rules apply to Portfolio Holder decisions:~~

- ~~(a) If the Leader or a Portfolio Holder has a Pecuniary Interest in any matter which s/he is requested to consider, s/he shall immediately return the papers to the Chief Executive. The matter will then be considered by the Executive. It is incumbent on Council officers to brief themselves as well as possible to avoid this situation arising.~~
- ~~(b) If a Portfolio Holder is absent or unavailable for any reason, the Leader of the Council (or in his/her absence the Deputy Leader) may, by written notice to the Chief Executive, have power to temporarily re-allocate that portfolio to another Executive Member until the next Executive meeting (when the Executive can decide the matter). The Leader or Portfolio Holder will be able to take part in the decision-making process if a dispensation has been granted.~~
- ~~(c) If a Portfolio Holder is unable to act for any other reason, the Leader of the Council is authorised to make the decision or in his/her absence or at his/her request the Deputy Leader is authorised to make the decision. If the Leader is unable to act, the Deputy Leader is authorised to make the decision.~~
- ~~(d) In respect of any ordinary business, the Leader or a Portfolio Holder may exceptionally decline to decide the matter and instead ask the relevant chief officer to put it on the agenda for the next Executive meeting.~~

- ~~(e) In respect of any urgent business, if the Portfolio Holder delays or declines to make a decision the Chief Executive shall have power to seek a decision from the Leader or Deputy Leader.~~
- ~~(f) Before making a decision, full consideration shall be given by the Leader and Portfolio Holders to all reports posted on the intranet and any comments made by Members.~~
- ~~(g) Before making a decision, where necessary, consideration shall be given to the need for further consultation or information.~~
- ~~(h) Decisions shall be published electronically and in accordance with Access to Information Procedure Rules.~~

23.0 How are executive meetings conducted?

32.1 Who presides?

The Leader will preside at any meeting of the Executive or its committees at which he/she is present, or may appoint another person to do so. If the Leader is not present and has not appointed another person to preside at the meeting, the members of the Executive who are present shall choose a member to preside.

2.2 Who may attend?

~~2.1.2.2.1~~ (a) All members of the Council may attend meetings of the Executive.

2.2.2 ~~2.1.(b)~~ Without prejudice to the powers of the person presiding at the meeting to control debate as chairman, the following right of address apply:

- (a)** ~~(i)~~ members of the Executive are entitled to speak at any meeting on any agenda item;

- (b) (ii) — any Group Leader who is not a member of the Executive (or a member nominated by him or her) may speak on any item before the Executive;
- (c) (iii) — any Member Champion may speak on any particular agenda item so long as they have informed the Leader of the Council prior to commencement of the meeting of his or her wish to do so. So long as this requirement is met, the person presiding at the Executive meeting shall call on the Member Champion to speak on the agenda item immediately following its presentation by the appropriate Executive Member(s) or officer(s). The Member Champion shall make clear to those present at the meeting his or her particular Member Champion remit and that he or she is speaking in this capacity;
- (d) (iv) — any member of the Council who is not an Executive Member may speak in accordance with Rule 2.5 (d) or with the consent of the person presiding; and
- (e) (v) — the person presiding may, at his or her discretion, permit one or more members of the public to address the Executive on a matter on the agenda provided he or she is satisfied that to do so would assist the Executive in coming to a decision on that matter. In giving such permission, the person presiding may attach such conditions as he or she thinks fit.

2.1.3(e)2.2.3 The person presiding has discretion to determine or limit the amount of time, and the number of times, that any member may speak on a particular item.

32.2-3 What business Conduct of the Executive meeting?

2.2.2.3.1 (a) At each meeting of the Executive or a Committee of the Executive the following business will be conducted:

- (a) ~~(i)~~ Leader's announcements, if any, whether made in person or by a person nominated to do so in the Leader's absence or the person presiding in the absence of such a nomination;
- (b) ~~(ii)~~ (a) — apologies for absence;
- (c) ~~(iii)~~ confirm as a correct record and sign consideration of the minutes of the last meeting;
- (c)
- ~~(d)~~ (iv)
- ~~(b)~~ — declarations of interest, if any;
- ~~(e)~~ v)
-
- ~~(e)~~ — matters referred to the Executive (whether by ~~a the~~ Overview and Scrutiny Committee, Performance, Audit and Government Committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
-
- ~~(vif)~~
- ~~(d)~~ — consideration of reports from the Overview and Scrutiny Committee and/or Performance, Audit and Government Committee ~~Scrutiny Committees~~; and
-
- ~~(viig)~~
- ~~(e)~~ — matters set out oin the agenda for the meeting, ~~and~~ which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

~~2.2.2(b)~~ 2.3.2 The person presiding at the meeting may vary the order of the agenda where it is necessary to do so for the

proper conduct of the business of the meeting. Where the person presiding is of the opinion that there is insufficient information available to the Executive to enable a proper decision to be reached, consideration of the matter in question may be deferred to a future meeting.

32.43 Consultation

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

32.54 ~~How items~~Who can put items can be put on the agenda for an Executive meeting~~agenda?~~

2.4.1(a) ~~Items may be placed on the agenda of an Executive meeting in any of the following ways:~~

- (i)(a) ~~an item will be placed on the agenda of the next available meeting of the Executive where the Overview and Scrutiny Committee, the Performance and Audit Scrutiny Committee or the Council has resolved that an item be considered by the Executive. There will be a standing item on the agenda of each meeting of the Executive for matters referred by the Overview and Scrutiny and Performance and Audit Scrutiny Committees;~~
- (ii)(b) ~~if any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a matter needs to be considered by the Executive or, alternatively, the Monitoring Officer or the Chief Financial Officer acting individually may request an item be included for consideration on the agenda of an Executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the officers requesting inclusion of the item may request that the Chief Executive calls a meeting in pursuance of his or her statutory duties~~

at which the matters can be considered ~~The monitoring officer and/or the chief financial officer may request an item be included for consideration on the agenda of an Executive meeting and may request the Chief Executive to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the head of paid service, chief financial officer and monitoring officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly request that an item be included on the agenda of an Executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to request that an item be included on the agenda may also request that a meeting be convened at which the matter will be considered;~~

- (iii)c) the Leader or any other member of the Executive may require the Proper Officer to place on the agenda of the next available meeting an item for consideration;
- (ivd) the Leader may agree to a request of any member of the Council that an item be placed on the agenda of the next available meeting for consideration. The notice of the meeting will give the name of the member who asked for the item to be considered. This member will be invited to attend the meeting and will be allowed to speak on the item. There shall be a maximum of two such items on any one Executive meeting agenda.

3.0 Decision-making

3.1 Key decisions

3.1.13.1.1 (a)An executive decision is a key decision if it meets the criteria listed in Part 2, Chapter 11.3.6 of this Constitution.

3.1.2 Key decisions may be taken by:

- (i)a) the Executive;

- (iib) an Executive Member to whom, or a committee of the Executive to which, authority over the function to which the key decision relates has been delegated;
- (iiic) an Executive Member or officer to whom, or a committee of the Executive to which, authority to make the specific key decision has been delegated; or
- (ivd) the delegator of the authority should the decision be returned to the delegator.

3.2 Forward Plan

~~3.2.1~~(a)3.2.1 Leader will ensure that the Proper Officer publishes a document, to be known as 'the Forward Plan', which shall include:

- (ia) all key decisions that are likely to be made on behalf of the council during the four month period following publication of the Forward Plan, with the proposed date of a decision on any matter appearing on the Forward Plan for the first time being no less than 28 clear days after publication;
- (iib) a list of the documents to be submitted to the decision maker(s) for each key decision listed;
- (iiic) details of how copies of the listed documents may be reasonably accessed along with the procedure for requesting copies; and
- (ivd) other relevant documents which may be submitted to the decision-maker(s) along with details of to whom such documents should be submitted.

~~(b)~~3.2.2 The Proper Officer will ensure that the current Forward Plan may be inspected at all reasonable hours and free of charge at the council's main offices.

3.3 Making key decisions

~~3.3.1~~3.3.1 (a)Key decisions may be taken only if due notice has been given of them in the Forward Plan unless the procedure for taking decisions without due notice has been followed.

3.3.2(b)3.3.2 Key decisions may be taken by the Executive, by individual Executive Members, by committees of the Executive or by officers acting in accordance with powers delegated generally or specifically for that purpose.

3.3.3(c)3.3.3 No key decision shall be acted upon until either the deadline for submission of a requisition (often termed 'call in') has passed without one being submitted or any requisition submitted has been disposed of, unless the urgency provisions section 3.8 below.

3.3.4(d)3.3.4 Where an Executive Member or an officer receives a report which they intend to take into account when making a key decision, they must not make that decision until the report has been available for public inspection for at least five clear days. This mirrors the notice period applicable to reports relating to key decisions to be considered by the Executive when meeting together.

3.3.5(e)3.3.5 The Executive Member or officer must ensure that the Proper Officer makes the report referred to in 3.3.4-(d) above (and a list and copies of Background Papers) available for inspection by members and the public as soon as reasonably practicable after the Executive Member or officer receives it.

3.3.6(f)3.3.6 Before making a decision, the decision-maker shall give full consideration to all reports made available relating to the decision, any comments on the proposed decision made by Members and, where necessary, consideration shall be given to the need for further consultation or information.

3.4 Non-key decisions

Non-key decisions are defined in Part 2, Chapter 11.3-.8(g) of this Constitution.

3.5 Making non-key decisions

3.5.1(a)3.5.1 Non-key decisions may be taken by the Executive, by an individual Executive Member, a committee of the Executive or by an officer. In all cases, the decision-making body or person will be determined in accordance

with powers delegated generally or specifically for that purpose.

~~3.5.2(b)~~3.5.2 No non-key decision shall be acted upon until either the deadline for submission of a requisition (often termed 'call in') has passed without one being submitted or any requisition submitted has been disposed of, unless the urgency provisions under paragraphs 3.8.2 (b-~~(ii)~~), 3.8.2 (c)-~~2~~ (b)~~c~~iii and 3.8.3-~~3~~ (c) below.

~~3.5.3(c)~~3.5.3 Where an Executive Member or an officer receives a report which they intend to take into account when making a non-key decision, they must not make that decision until the report has been available for inspection by members and the public for at least five clear days. This mirrors the notice period applicable to reports relating to key decisions.

~~3.5.4(d)~~3.5.4 The Executive Member or officer must ensure that the Proper Officer makes the report referred to in 3.5.3-~~3~~(c) above (and a list and copies of Background Papers) available for inspection by members and the public as soon as reasonably practicable after the Executive Member or officer receives it.

~~3.5.5(e)~~3.5.5 Before making a decision, the decision-maker shall give full consideration to all reports made available relating to the decision, any comments on the proposed decision made by Members and, where necessary, consideration shall be given to the need for further consultation or information.

3.6 Executive Member Decisions: Supplemental Rules

~~3.6.1(a)~~3.6.1 Individual Executive Members are empowered in line with their portfolios and delegations listed in Part 3 E of this Constitution to make Executive decisions. If an individual Executive Member intends to make a key and non-key decision, the following additional rules apply:-

(~~ia~~a) If the Leader or an Executive Member has a Pecuniary Interest in any matter which he or she is requested to consider, he or she shall immediately

return the papers to the Chief Executive. The matter will then be considered by the Executive. It is incumbent on council officers to brief themselves as fully as possible to avoid this situation arising.

(b)ii(b) If an Executive Member is absent or unavailable for any reason, the Leader of the Council (or in his/her absence the Deputy Leader) may, by written notice to the Chief Executive, have power to temporarily re-allocate that portfolio to another Executive Member until the next Executive meeting (when the Executive can decide on the matter). The Leader or Executive Member will be able to take part in the decision-making process if a dispensation has been granted.

(iii(c) If an Executive Member is unable to act for any other reason, the Leader of the Council is authorised to make the decision or in his/her absence or at his/her request the Deputy Leader is authorised to make the decision. If the Leader is unable to act, the Deputy Leader is authorised to make the decision.

(iv(d) In respect of any ordinary business, the Leader or an Executive Member may exceptionally decline to decide the matter and instead ask the Proper Officer to put it on the agenda for the next Executive meeting.

(v(e) In respect of any urgent business, if the Portfolio Holder delays or declines to make a decision the Chief Executive shall have power to seek a decision from the Leader or Deputy Leader.

(b)3.6.2 Individual Executive Members shall not be empowered to make a key or non-key decision if:

(ia) the decision would be a departure from the agreed annual budget or Policy Framework;

(iib) the Leader has indicated that the decision should be taken collectively by the Executive. Notification of this by the Leader must be made to the Head of Legal and Democratic Services;

(iii) the decision is solely in relation to the Executive Member's own ward including, for example, making a grant, unless this is agreed by the Leader;

(iv) the Executive Member has either a disclosable pecuniary interest or some other conflict of interest in which case the provisions in 3.6.1(a) above apply;

(v) the authority to make the decision has been delegated to an officer, unless the officer refers the decision to the Executive Member; or

(vi) the Monitoring Officer or Chief Executive has determined that the decision is not an executive decision.

3.6.3(c) 3.6.3 As with any executive decision, the Executive Member must consult those officers deemed appropriate by the Chief Executive and must take into account of this advice and the legal, financial and equalities implications of the decision under consideration.

3.6.4(d) 3.6.4 Where there are significant implications across portfolios, the decision should be made in consultation with other appropriate Executive Members.

3.6.5(e) 3.6.5 Where a decision has a significant impact on an individual ward the Executive Member should consult the appropriate ward member(s).

3.6.7(f) 3.6.6 Where it is not clear in which Executive Member's portfolio an issue sits, the Leader shall decide. If the appropriate Executive Member is unavailable and a decision needs to be taken urgently, then the Leader may take the decision in consultation with the Chief Executive.

3.6.8(g) 3.6.7 The rules relating to the notification and recording of decisions, along with call in procedures, as covered elsewhere in Part 4 D of the Constitution apply to executive decisions taken by individual Executive Members.

3.7 Recording of Key and Non-Key Executive decisions

3.7.1(a)3.7.1 The outcome of executive decisions, whether key decisions or non-key decisions, shall be recorded as soon as practicable after they have been made in accordance with Access to Information Procedure Rules.

3.7.2(b)3.7.2 An executive decision taken by the Executive at an Executive meeting shall be recorded in the minutes of that meeting. An executive decision taken by an individual Executive Member or an officer shall be recorded separately. In both cases, the Proper Officer shall produce a written statement in respect of that decision which includes:

(ia) a record of that decision;

(iib) a record of the reasons for that decision;

(iiic) details of any alternative options considered and rejected at the time;

(ivd) a record of any conflict of interest or of any dispensation granted.

3.7.3(c)3.7.3 Following the making of an executive decision by whichever means whether in private or public as allowed by this constitution, the Proper Officer shall ensure that any records prepared in connection with and any report considered shall be available for inspection by members of the public.

3.8 Action where a key decision has not been shown on the Forward Plan

3.8.1(a)3.8.1 A key decision that has not been shown on the Forward Plan shall only be made in exceptional circumstances.

3.8.2(b)3.8.2 Such a key decision shall only be made if the Chairman of the Overview and Scrutiny Committee or Performance, Audit and Governance Committee as appropriate signifies in writing on the report relating to the decision to be made that:

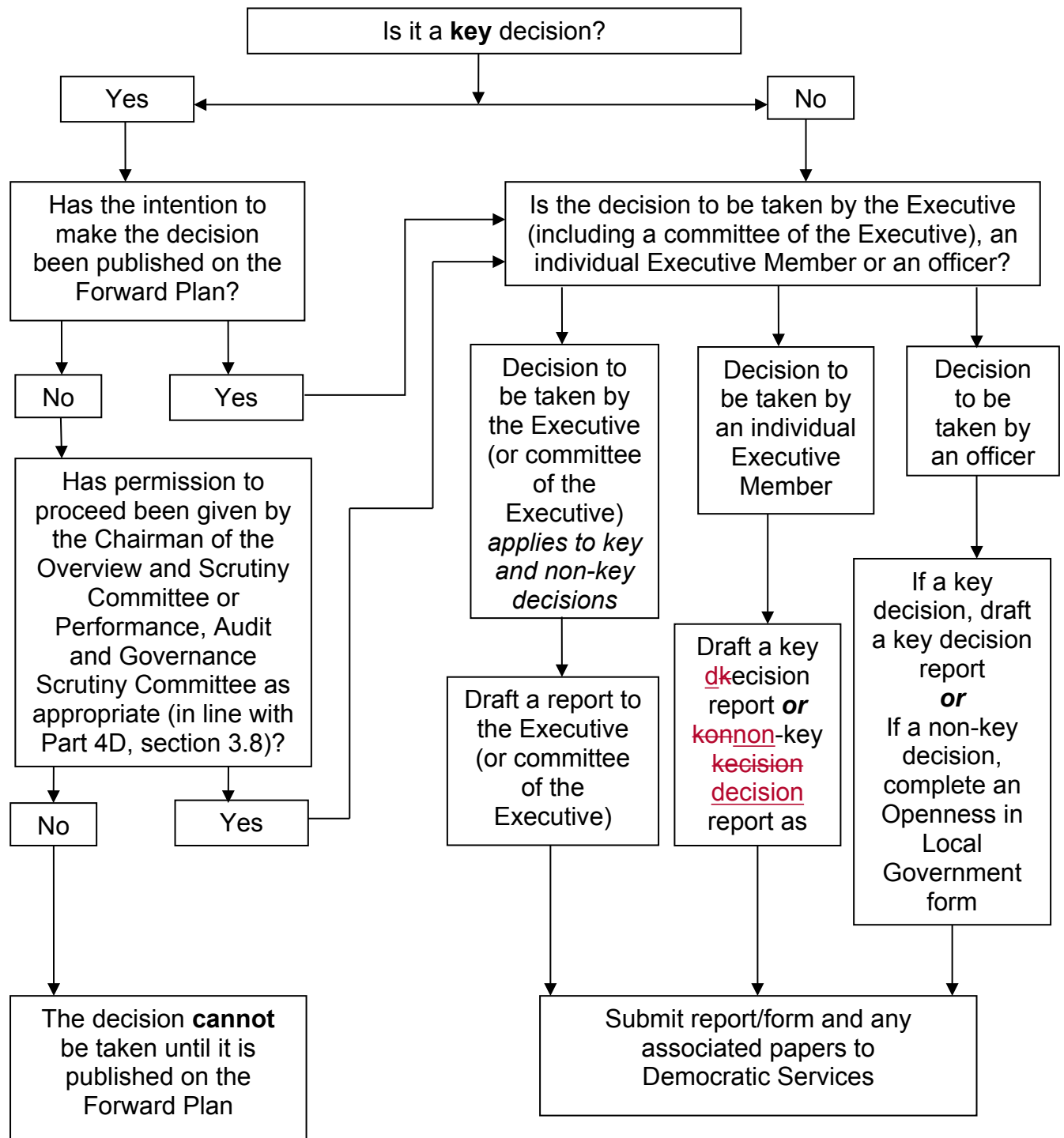
(ia) it was reasonable in the circumstances for notice of the need for the decision not to appear on the Forward Plan;

(iib) there is urgency for the decision to be made that justifies its being dealt with immediately rather than being processed in the normal way;

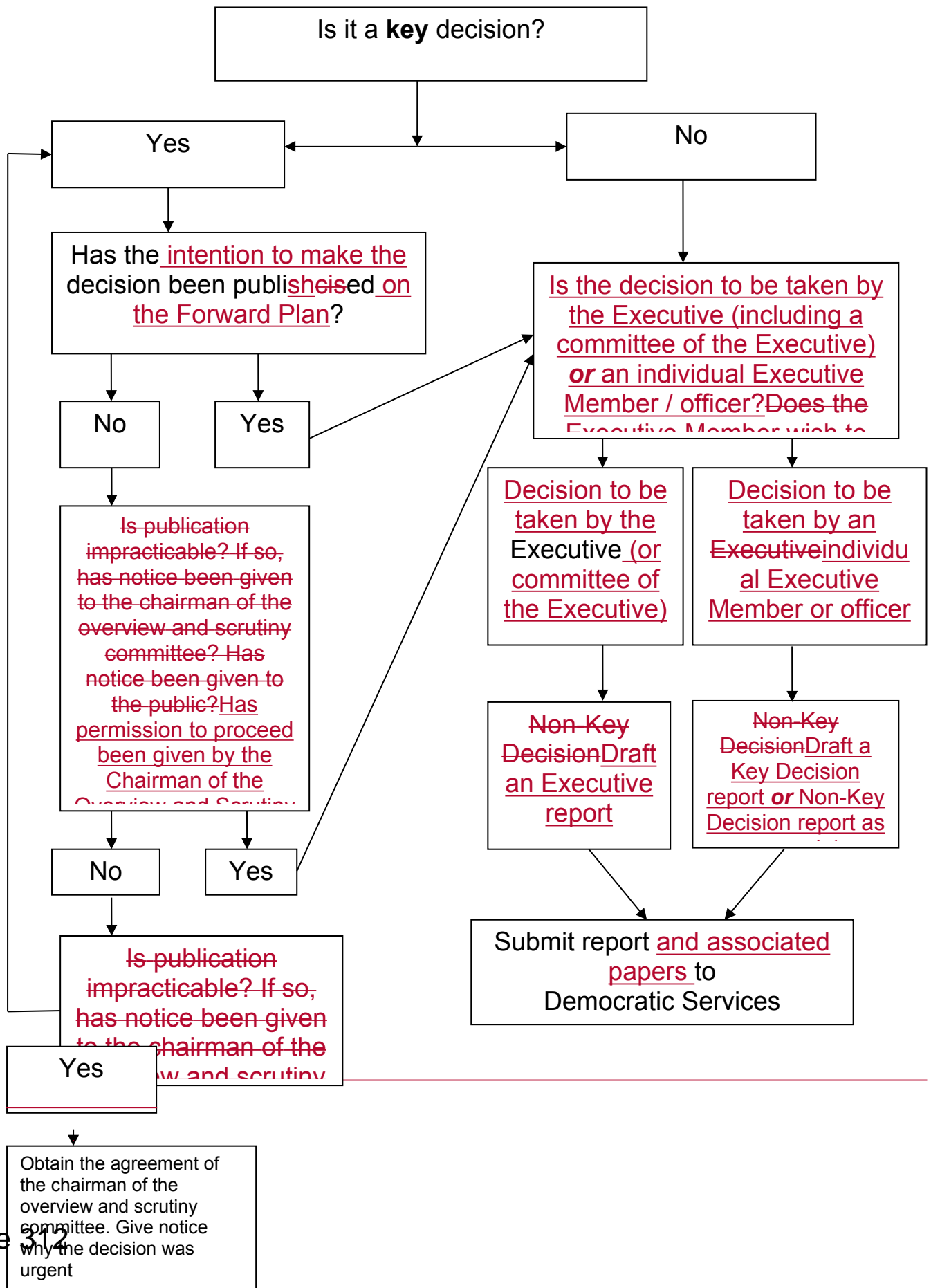
(iiic) there are no grounds for supposing that the decision would be called in if processed in the normal way.

3.8.3(e) 3.8.3 Where the Chairman so signifies, the decision may be made forthwith and implemented without delay under the provisions for this in Part 4E, section 1.16 of this Constitution. Under these provisions, the decision shall not be liable to be called in under the procedure governing this in Part 4E, section 1.15 of this Constitution.

EXECUTIVE DECISION-MAKING PROCESS



EXECUTIVE DECISION-MAKING PROCESS



SCRUTINY PROCEDURE RULES

1.0 The Council will have two scrutiny committees as set out in [Part 2, Article Chapter X7](#) of this Constitution, [which includes - Terms of Reference for each committee](#) ~~are set out at the end of this section of the Constitution~~ [Part 2 Chapter 7](#).

1.1 ~~What will be the~~ **The number and arrangements for scrutiny committees?**

1.1.1 Each Committee will consist of a maximum of 14 members of the Council. The Council will normally observe the rules governing political balance contained in Section 15 of the Local Government and Housing Act 1989 when allocating seats to each committee but it may resolve to vary this provision by unanimous vote at the Annual Meeting.

[1.1.2](#)

The committees may appoint sub-committees.

1.1.3 [Further](#) Scrutiny committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

1.1.4 Scrutiny Committees may appoint task and finish groups which shall be given a brief to consider a specified subject area and report back to Committee on a regular basis as determined by the Committee.

-1.2 Who may sit on Scrutiny committees?

1.2.1 All Councillors except Members of the [Executive](#) may be members of a scrutiny committee. However, no Member may be involved in scrutinising a decision which he/she has been directly involved. In addition no Member may sit on both Committees.

1.2.2 The members of the [Standards](#) Sub Committee shall be appointed from the members of the Performance and Audit Governance Committee.

1.3 Appointment of members and substitutes

~~Check current arrangements with Martin~~

Members and Substitutes on scrutiny committees shall be appointed by Annual Council in accordance with the wishes of the political group to whom the seats have been allocated.

~~Check current arrangements with Martin~~

1.4 Co-optees

Each scrutiny committee or sub-committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

1.5 Meetings of the scrutiny committees

Meetings of Scrutiny committees shall be programmed in each year. There will normally be between four and six meetings of each committee annually. In addition, extraordinary meetings may be called from time to time as and when appropriate. A scrutiny committee meeting may be called by the Chairman of the relevant scrutiny committee, by any ~~four~~⁴ members of the committee or by the Scrutiny Officer if he/she considers it necessary or appropriate.

1.6 Quorum

The quorum for a scrutiny committee shall be ~~one quarter~~^{third} of the committee membership as set out in Part 4A of the Constitution ~~xxx~~.

1.7 Who chairs scrutiny committee meetings?

~~1.7.1(a)~~ Overview and Scrutiny Committee

1.7.1 The Chairman of the Overview and Scrutiny Committee will be appointed by ~~the Council Committee~~^{Council at its annual first meeting in the civic year in May}. The Vice-Chairman will ~~also~~ be appointed by the committee at its first meeting of the civic year.

1.7.2 In the event that there is more than one political group within the Council, it will be desirable for:-

(ai) the Overview and Scrutiny Committee to be chaired by a Member who is not a Member of the Majority group; and

(bii) the Vice-Chairman of the Overview and Scrutiny Committee to be a Member of the Majority group.

1.7.3 The Chairman and Vice-Chairman will hold office until:-

_____ (ai) _____ he/she resigns from the office of Chairman or Vice-Chairman; or

_____ (bii) _____ he/she is no longer a Councillor.

1.7.4 Upon the occurrence of a vacancy in the office of _____ Chairman or ~~Vice-Chairman~~ ViceChairman, the Committee shall fill the _____ vacancy at its next ordinary meeting

~~1.7.2(b)~~ **Performance₁ and Audit and Governance Scrutiny Committee**

1.7.5 The Chairman of the Performance₁ and Audit and Governance Scrutiny Committee will be appointed by the ~~Committee at its first meeting in the civic year~~ Council at its annual meeting in May. The Vice-Chairman will also be appointed by the committee at its first meeting of the civic year.

1.7.6 The Chairman and Vice-Chairman will hold office until:-

(ia) _____ he/she resigns from the office of Chairman or Vice-Chairman; or

(bii) _____ he/she is no longer a Councillor.

1.7.7 Upon the occurrence of a vacancy in the office of Chairman or Vice Chairman, the Committee shall fill the vacancy at its next ordinary meeting.

1.8 **Work programme**

1.8.1 ~~1.8.1(a)~~ — The scrutiny committees/sub-committees will be responsible for setting their own work programme and in doing so they shall take into account wishes of Members on that committee who are not Members of the largest political group on the Council.

~~1.8.2(b)~~ — **Overview and Scrutiny Committee**

1.8.2 The committee will be ‘forward-looking’, shaping new policies at an early stage of their development, and undertaking major reviews of existing policies or service delivery models in order to look to make future improvements, having recourse to Task and Finish groups where appropriate (which could include non-members of the committee where they have a particular interest in the topic or have a particular skill set to bring to the group).

~~1.8.3(c)~~ — **Performance and Audit and Governance Scrutiny Committee**

1.8.3 The committee will consider, as a minimum, the following:

- (i) Council’s annual budget
- (ii) Medium Term Financial Strategy
- (iii) Treasury Strategy
- (iv) Annual Accounts and Annual Governance Statement
- (v) Corporate Annual Report
- (vi) Corporate Healthchecks
- (vii) Risk Management and Risk Registers
- (viii) Service Plan Monitoring of Progress and Exceptions
- (ix) Review of capital programme delivery
- (x) Reviews relating to the effectiveness of changes to service delivery models
- (xi) Internal Audit reports

1.9 Agenda items

1.9.1 Any Member of a scrutiny committee or sub-committee shall be entitled to give notice to the Scrutiny Officer that he/she wishes

an item relevant to the functions of the committee or sub-committee to be included on the agenda for the next available meeting of the committee or sub-committee, following such procedures as are established at the time. On receipt of such a request the Scrutiny Officer will ensure that it is included on the next available agenda, subject to having scoped out the work required to deliver the item and considered the feasibility of this work in terms of officer/other resources.

- 1.9.2** The scrutiny committees shall also respond, as soon as their work programme permits, to requests from the Council and the Executive to review particular areas of Council activity. Where they do so, the scrutiny committee shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the scrutiny committee at its next meeting.
~~within one month of receiving it.~~

1.10 Reports from scrutiny committee

- ~~1.10.1~~ **1.10.1 (a)** — Once it has formed recommendations on proposals ~~for development~~, the scrutiny committee (with support from officers) will prepare a formal report and submit it via the Scrutiny Officer for consideration by the Executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

- ~~1.10.2~~ **1.10.2 2(b)** — The Chairman, or in his/her absence, the Vice-Chairman of the Overview and Scrutiny Committee and Performance, Audit and Governance Committee will normally be responsible for presenting the report to the Executive or the Council as appropriate. However, in the case of the report of a task and finish group, the report to the Executive and/or Council can also be made by the chairman or vice-chairman of the task and finish group.

- ~~1.10.3~~ **1.10.3(c)** — If a scrutiny committee cannot agree on one single final report to the Council or Executive as appropriate, then a minority report may be prepared and submitted for

consideration by the Council or ~~Executive~~executive with the majority report with the agreement of the Committee.

~~1.10.4~~1.10.4 (d) — The Council or ~~Executive~~executive shall consider the report of the scrutiny committee ~~within one month of it being submitted to the Scrutiny Officer at its next meeting.~~

1.11 Making sure that scrutiny reports are considered by the Executive

1.11.1 (a) — Once the Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Scrutiny Officer who will allocate it to either or both the Executive and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. If the Scrutiny Officer refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Executive must be given the opportunity to respond to the ~~Overview and~~ Scrutiny report before the Council meets to consider it. When the Council does meet to consider any referral from the Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider ~~the any~~ response of the Executive to the Scrutiny proposals.

1.11.2 (b) — The agenda for Executive meetings shall include an item entitled 'Issues arising from Overview and Scrutiny and Performance, ~~and~~ Audit ~~and Governance~~ ScrutinyGovernance' and the Chairmen will have a standing invite to present this item should they wish to. Any reports of the Scrutiny Committees referred to the Executive shall normally be included at this point in the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda).

~~The Scrutiny Committees will in any event have access to the Executive's Forward Plan and timetable for decisions.~~

~~1.12~~ Rights of Members:

Documents

- ~~(a) — In addition to their rights as Councillors, Members of scrutiny committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.~~
- ~~(b) — Nothing in this paragraph prevents more detailed liaison between the executive and scrutiny committees as appropriate depending on the particular matter under consideration.~~

1.132 Members and officers giving account

1.12.1 (a) — Any scrutiny committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any ~~(other)~~ Member of the executive, the head of paid service and/or any senior officer to attend before it to explain in relation to matters within their remit:

- (i) any particular decision or series of decisions;
- (ii) the extent to which the actions taken implement cCouncil policy; and/or
- (iii) their performance;

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

1.12.2 (b) — Where any Member or officer is required to attend a scrutiny committee under this provision, the Chairman of that committee will inform the Scrutiny Officer. The Scrutiny Officer shall inform the Member or officer in writing giving at least 107 working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

1.12.3 (e)—Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the scrutiny committee shall in consultation with the Member or officer arrange an alternative date for attendance.

1.134 Attendance by others

A scrutiny committee may invite people other than those people referred to in paragraph 1.132 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to address it.

1.154 Call-in

~~1.15.1~~ 1.14.1 (a)—A key element of the scrutiny role concerns the arrangements for the “call-in” of a decision taken by or on behalf of the Executive. ~~A Key or non-key decision decisions~~ by the Executive, a committee of the Executive or, an individual Executive Member and non-key decision or a key decisions made by an officer with delegated authority from the Executive, may be “called in” by ~~XXX [four or five]~~ members of the Council submitting a request in writing on the call in request form to the Chief Executive within 5 five working days of the publication of that decision. No action can be taken on an item called in for scrutiny.

1.14.2 (b)—Call-in should only be used in exceptional circumstances. These are where Members have evidence which suggests that the Executive decision was not taken in accordance with the principles set out in Part 2, Article Chapter 112 (Decision Making). In order to ensure that call-in is not abused; nor causes unreasonable delay, certain limitations are to be placed on its use. These are:-

(~~ia~~) a decision must be called-in by at least ~~five M~~four Members of the Council; and

(~~bii~~) a decision on the same item may only be “called in” for scrutiny by the Committee on one occasion within a six months ~~s~~ period. The six month period is to

commence from the date the “call-in” request is received by the Chief Executive;

- (iii) members who have called in a decision may withdraw their call-in at any time prior to the meeting taking place to hear the call-in, by giving notice in writing to the Scrutiny Officer.

~~1.15.3~~ 1.14.3 (c) — The following arrangements for the call-in of ~~decisions made by the Executive~~ will apply:-

- (i) a when a key or non-key decision is made by the Executive (or by any committee or members of the Executive with a delegated authority contained in Part 3 of this Constitution) or a key decision is made by an officer with delegated authority from the Executive, the decision shall be published electronically. ~~Normally, such publication will be on the Friday of the week in which the decision was taken.~~ Notification of all such decisions will also be issued to all members ~~within the same timescale~~ by the person responsible for publishing the decision; ~~Part 4 — Overview and Scrutiny Committees Procedure Rules March 2015~~
- (ii) the relevant notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless it is called in;
- (iii) during that period, the Chief Executive shall call-in a decision for scrutiny by the committee if so requested by members (in accordance with paragraph 1.154.2 above), and shall notify the decision-taker of the call-in. An item called in for scrutiny will normally be considered by the Overview and Scrutiny Committee (if more appropriate by the Performance, Audit and Governance Committee) at its next scheduled meeting. However, in consultation with the Chairman of the Committee, he/she may call an extraordinary meeting of the Committee on such date as he/she may determine (in accordance with the Access to

Information Procedure Rules in Part 4B of this Constitution);

(~~ivd~~) any member considering calling in an ~~decision~~ ~~Executive decision, an individual non-key decision or~~ a Key Decision taken by an officer under delegated authority, must first be required to make every effort to discuss the issue with the relevant ~~Portfolio Holder~~Executive Member or the Leader of the Council;

(~~ve~~) members using the call-in arrangements have the right to address the Committee when it deals with the issue;

(~~vif~~) normally, the Committee will complete its scrutiny of the issue at that meeting and report the outcome to the next meeting of the Executive. However, the Committee may consider that further time is required to consider the issue and would therefore need to recommend to the Executive that further work be carried out and that the Overview and Scrutiny Committee makes recommendations at a later date. In these circumstances, the Executive will decide whether or not the decision should be implemented, having regard to the urgency, if any, of the matter and the provisions of the Budget and Policy Framework Rules (see (~~ix~~) below);

(~~viig~~) if the Overview and Scrutiny Committee agrees with a called-in decision, the decision may be implemented immediately following the Overview and Scrutiny Committee meeting;

(~~viiih~~) -if, through the scrutiny process and/or in pursuance of the Budget and Policy Framework Procedure Rules set out in ~~XXXsection/paragraphXXX~~Part 4C of this constitution, a called-in decision is deemed to be contrary to the policy framework, and/or contrary to or not wholly consistent with the budget, it may have to be referred to the Council for a final decision and the action cannot be acted upon until this decision is made;

~~_(hix) _if the called in decision does not contradict the policy framework and/or budget but the Committee decides to makes an alternative recommendation, this will be considered by the Executive at its next meeting and no action should be taken until a final decision has been made by the Executive. (or the full Council— see (i) below); and~~

~~(i) as set out in the Budget and Policy Framework Procedure Rules, called in decisions which are deemed to be contrary to the policy framework, or contrary to or not wholly consistent with the budget, may have to be referred to the full Council for a final decision.~~

1.165 **Call-in and urgency**

The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the ~~Council's council's~~ or the public's interest. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Overview and Scrutiny Committee must agree both that the decision proposed is reasonable ~~in all the circumstances and that there are reasonable grounds for to it being treated~~ as a matter of urgency. In the absence of the Chairman, the Vice Chairman of the Overview and Scrutiny Committee's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

1.176 **Procedure at scrutiny committee meetings**

1.16.1 (a)—Scrutiny committees and sub-committees shall consider the following business:

- (i) minutes of the last meeting;
- (ii) declarations of interest;

- (iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
- (iv) responses of the Executive to reports of the scrutiny committee;
- (v) consideration of the forward plan and
- (vi) the business otherwise set out on the agenda for the meeting, [including the committee's workplan](#).

[1.16.2 \(b\)](#)—The Executive members will be individually invited to give an account of his or her portfolio to one of the scrutiny committees at least once annually and will answer any questions posed by committee members. This attendance shall be in addition to any attendance required or invited by the committee in relation to specific items of business. The time set aside for presentation of each portfolio report and questions thereon shall be at the discretion of the Chairman.

[1.16.3 \(c\)](#)—Where the scrutiny committee conducts investigations ([e.g. for example](#), with a view to policy options), the committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:

- (i) that the investigation be conducted fairly and all Members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
- (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

[1.16.4 \(d\)](#)—Following any investigation or review, the committee/sub-committee shall prepare a report, for submission to the [executive Executive](#) and/or Council as appropriate and shall make its report and findings public.

1.187 Matters within the remit of more than one scrutiny committee

Where a scrutiny committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of the other scrutiny committee, before submitting its findings to the ~~Executive~~ and/or Council for consideration, the report of the reviewing scrutiny committee shall be considered by the other scrutiny committee for comment. Those comments shall be incorporated into the report which is then sent to that body for consideration. The two committees, through their Chairmen and with agreement of the Leader of the Council, may decide to hold a joint ~~meeting of~~ scrutiny ~~committees~~ if they feel this would be a more effective way of carrying out occasional business where there is clearly value in both committees considering a report simultaneously.

1.18 The party whip

1.18.1 For the purpose of this section, reference to “the party whip” shall mean:-

“Any instruction given by or on behalf of a political Group to any Councillor who is a Member of that Group as to how that Councillor shall speak or vote on any matter before the Council or any Committee or Sub-Committee, or the application or threat to apply any sanction by the Group in respect of that Councillor should he/she speak or vote in any particular manner.”

1.18.2 As part of the scrutiny function, the imposition of the party whip is regarded by the Council as incompatible with each Committee’s terms of reference. The party whip should not therefore be imposed on any member of the Overview and Scrutiny or Performance ~~and~~ Audit ~~and~~ Governance ~~Scrutiny~~ Committee while engaged in their Committee’s work.

1.19 Councillor Call for Action (CCfA)

Any Councillor may request that a scrutiny committee consider the inclusion of a Councillor Call for Action (CCfA) on its work programme, under the terms of the CCfA Protocol set out below.

The operation of CCfA will be in full compliance with the Protocol and, as for call-in, will be used only in exceptional circumstances where all other possible avenues for resolution of the issue have been followed by the referring Councillor, and yet a problem still exists.

|

Councillor Call for Action (CCfA) Protocol

Under section 119 of the Local Government and Public Involvement in Health Act 2007, a Members may call for debate and discussion at committee, a topic of neighbourhood concern. These powers are limited to an issue which affects a single council ward. CCfA will be considered by the scrutiny committee, whose terms of reference include within its remit, the subject of the CCfA. If in doubt, the Monitoring Officer shall determine which scrutiny committee would be the relevant recipient. In order to initiate the CCfA process, the Chairman of the relevant scrutiny committee in conjunction with the Monitoring Officer will need to be satisfied that the following criteria have been met:

Criteria

Statutory Regulations specify matters that are excluded from CCfA:

1. any matter which is vexatious, discriminatory or not reasonable;
2. any matter which is the subject of an individual complaint;
3. any matter relating to a planning appeal, licensing appeal or other issue where there is an alternative avenue available; and
4. the matter must be one where all other attempts at resolution have been exhausted.

The following process will need to be followed:

Process

1. A Member should direct a CCfA request in writing to the Chairman of the relevant scrutiny committee and the Monitoring Officer who will, if the above criteria are met, allow the issue to be placed on the agenda for a subsequent meeting. The request should specify:
 - the ward concerned and how the issue relates only to that ward;
 - the views and concerns of local residents;
 - how existing mechanisms for resolution have been tried and exhausted; and
 - the desired outcomes for resolving the issue.
2. The scrutiny Chairman, in conjunction with the Monitoring Officer, may determine whether the next scheduled meeting of the

relevant scrutiny committee is appropriate or if an additional meeting needs to be convened.

3. The scrutiny committee, subject to the necessary notice being given, will be able to request attendance from the relevant Executive Member and/or representatives of partner organisations, and/or to request information.
4. The scrutiny committee should discuss how to achieve the desired outcomes that the member bringing the CCfA has specified and should conclude its consideration with a recommendation that certain action(s) should take place. The scrutiny committee may decide to challenge whether the desired outcome is reasonable.
5. Whilst there will be no specified procedure for the discussions at committee, the scrutiny Chairman, in consultation with Officers, may determine an informal structure that will enable all parties to contribute.
6. All CCfA requests, whether pursued or not, should be reported to the next relevant scrutiny committee for information. This will enable scrutiny committees to take account of all requests in determining work programmes.

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OFFICER EMPLOYMENT PROCEDURE RULES

1. Recruitment and appointment

1.1 Declarations

- 1.1.1 The council will require any candidate for appointment as an employee to state in writing whether they have any connections to an existing Member or employee of the council or of the spouse or partner of such persons.
- 1.1.2 A candidate who does not disclose such a relationship may be disqualified from consideration, and if appointed, may be liable to dismissal.
- 1.1.3 Every member and officer of the council will inform the Head of Service concerned when they become aware of an application by a relative.
- 1.1.4 No candidate connected to a Member or an officer will be appointed without the authority of the Head of Paid Service or an officer nominated by him/her.

1.2 Seeking support for appointment.

The council will disqualify any applicant who directly or indirectly seeks the support of any Member for any appointment with the council. The content of this paragraph will be included in any recruitment information.

2. Recruitment of Head of Paid service and Chief Officers

- 2.1 For the purposes of these rules, the term “Chief Officers” shall mean the Chief Executive and the Directors.
- 2.2 Where the council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among existing officers, the council will:
 - (a) draw up a statement specifying the duties of the officer concerned and any qualifications or qualities to be sought in the person to be appointed; and

- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it.

3.0 Appointment of Chief Executive

Before an offer of appointment is made, Council will be required to approve the appointment of the Head of Paid Service following the recommendation of the Chief Officer Recruitment Committee.

4.0 Appointment of Directors

4.1 The Chief Officer Recruitment Committee will appoint Directors.

4.2 An offer of employment as a Director shall only be made where no well-founded objection from any Member of the Executive has been received.

5.0 Other Appointments

5.1 Officers below Chief Officer. Appointment of officers below Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Members.

5.2 Assistants to political groups. Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6.0 Disciplinary Action

6.1 Disciplinary action for the dismissal of the Head of Paid Service, Chief Financial Officer or Monitoring Officer shall take place in accordance with Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2015. The Chief Officer Recruitment Committee shall be the “Panel” referred to in Schedule 3:

6.2 Suspension. The Head of Paid Service, Directors, Monitoring Officer or Chief Financial Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months unless the Investigator recommends the suspension should continue beyond that point.

- 6.3 Members will not be involved in disciplinary action against any officer below Chief Officer level, except where such involvement is necessary for any investigation or inquiry into alleged misconduct. Such disciplinary action will be undertaken by the Head of Paid Service or an officer nominated by him/her.
- 6.4 The Chief Officer Recruitment Committee will make recommendations to Council for the dismissal of the Head of Paid Service, Chief Financial Officer or Monitoring Officer and Council must approve that dismissal before notice is given to that person.
- 6.5 The Chief Officer Recruitment Committee shall approve any disciplinary action, short of dismissal, against the Head of Paid Service, Chief Financial Officer or Monitoring Officer.
- 6.6 Subject to the provisions of The Local Authorities (Standing Orders) (England) Regulations 2015 all actions will be in accordance with both the JNC Conditions of Service for Chief Executives/Chief Officers and the council's employment policies.
- 6.7 The Chief Officer Recruitment Committee will approve the dismissal of a Director.
- 6.8 Notice of the dismissal of the Chief Executive or any Director or assistant to a political group must be given to the Executive in accordance with paragraph 6 of Part II to Schedule I of the Local Authorities (Standing Orders) (England) Regulations 2015.
- 6.9 Directors, Chief Officers and the Head of Paid Service have a right of appeal against dismissal to a Joint Chief Officer Appeals Committee specifically appointed for that purpose.

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East Herts District Council Financial Procedure Rules

1.0 Introduction

- 1.1 These Financial Procedure Rules (FPRs) have been issued in accordance with Section 151 of the Local Government Act 1972, the Accounts and Audit (England) Regulations Act 2011, the provisions of Section 114 of the Local Government Finance Act 1988 and Sections 4 and 5 of the Local Government and Housing Act 1989.
- 1.2 The FPRs have been adopted by East Herts District Council to provide a framework of control, responsibility and accountability for the administration of the council's financial affairs. The FPRs are, in many of the areas detailed below, supported by more detailed guidance and procedures which set out how they will be implemented.
- 1.3 The FPRs are intended to clarify the powers and duties to be exercised with regard to the principles of good financial management. All officers must comply with the FPRs. Officers must ensure that any Agents, Consultants and contractual partners acting on the council's behalf also comply. Any queries regarding the interpretation of the FPRs should be directed to the Chief Financial Officer.
- 1.4 For the purposes of these FPRs there is a requirement for all communication to be in writing except where otherwise specified. This shall be deemed to include electronic communication.
- 1.5 Where inconsistencies may appear to arise the order of precedence shall be: (i) legislation, (ii) other rules of procedure in Part ~~4X~~ of this Constitution, (iii) Scheme for the Responsibility for Functions (Part ~~3CX~~ of this Constitution), then (iv) Financial Procedure Rules.

2.0 Financial delegations

All officers must operate within the council's Scheme of Financial Delegations as listed in Appendix 1. As a general

principle, financial decisions will be taken at the lowest level allowable within the officer and Member hierarchy in the Scheme.

3.0 Officer responsibilities for financial management

3.1 The role of the Chief Financial Officer

3.1.1 The Chief Financial Officer is responsible for administering the financial affairs of the council and for establishing proper systems of internal control.

~~3.1.3.1.2~~ ~~1(a)~~ The Chief Financial Officer shall:

- (~~iaa~~) ensure that the policies of the council and statutory requirements are adhered to;
- (~~biiib~~) the business of the council is carried out in an orderly, efficient and effective manner;
- (~~iiice~~) the council's records are complete and accurate;
- (~~ivdd~~) ensure financial information and reporting is timely and accurate;
- (~~vee~~) ensure the assets of the council are safeguarded;
- (~~viff~~) make and control arrangements for the payment of the council's creditors and for the collection, custody and accounting of all monies received by the council;
- (~~viigg~~) establish an adequate and effective internal audit of the council's accounting records and system(s) of internal control;
- (~~viiihh~~) have access to all records, cash or other council property as required for audit purposes. If required the Chief Financial Officer may also request access to such information and explanations from any Officer or Member as may be necessary for audit purposes;
- (~~ixi~~) prepare and publish the Annual Accounts of the councils in accordance with statutory requirements and the policies of the council; and

- (~~xj~~) have responsibility for making all statutory returns and the like to H M Customs and Excise in relation to Value Added Tax, and for the obtaining and giving of advice and guidance to the council and Heads of Service on all tax matters.

3.2 The role of budget holders

3.2.1 ~~3.2.1(a)~~ Budget holders are officers who are responsible for monitoring a budget, including determining expenditure from and/or income posted to that budget. Budget holders may be at any level within the council.

~~3.2.2~~ 3.2.2 ~~(b)~~ Budget holders shall:

- (~~a~~) maintain financial records and accounts that can be accessed by the Chief Financial Officer when required. The financial records shall be retained by budget holders for such periods as required for council or statutory purposes;
- (~~b~~) in consultation with the Chief Financial Officer ensure that all financial affairs of the council are managed in a properly controlled environment and compliant with the council's Information Security Policy;
- (~~c~~) manage ~~all financial records and accounts~~ budgets using the council's financial management system. This will enable the Chief Financial Officer to maintain effective control and audit of the financial affairs of the council;
- (~~d~~) designate officers to be responsible for authorising financial transactions on their behalf if and when required. Budget Holders must inform the Chief Financial Officer of all officers with delegated financial responsibilities; and
- (~~e~~) be responsible for ensuring the correct treatment of Value Added Tax on all accounts payable by, and all invoices raised.

3.3 Officer roles regarding financial reporting and investigation

~~3.3.3.3.1~~ ~~1(a)~~—Any officer who suspects any financial irregularity should raise ~~their~~his or her concerns with ~~their~~his or her line manager or a member of the council's Leadership Team in accordance to the Whistleblowing Policy. The Chief Executive and the Chief Financial Officer will take such steps as they consider necessary by way of investigation and report.

~~3.3.2(b)~~—~~3.3.2~~ -The Chief Financial Officer shall ~~control~~control the issue and use of controlled stationery. Controls on the use of such stationery must be adequate to enable usage to be traced and to prevent incorrect or fraudulent usage.

~~(c)3.3.33.3.3~~ Budget Holders shall be responsible for the security and use of controlled stationery and are not permitted to obtain controlled stationery other than in accordance with the internal arrangements set out by the Chief Financial Officer.

4.0 Banking arrangements

4.1 The Chief Financial Officer shall make and control arrangements as necessary for the operation of banking services for the council.

4.2 All monies received on behalf of the council should be brought to the attention of the Chief Financial Officer and banked in accordance with ~~their~~his or her instructions.

4.3 The Chief Financial Officer shall arrange payments or transfers to and from the council's bank accounts by the use of electronic methods.

4.4 The Chief Financial Officer shall ensure that all bank accounts and credit cards operated by the council are reconciled at intervals of no longer than one calendar month.

5.0 Forward financial planning

5.1 The Chief Financial Officer will prepare, for the Executive, a timetable each year for the preparation, submission and approval of the forward financial plan covering revenue budgets and capital expenditure.

- 5.2 The Chief Financial Officer will ensure that the forward financial plan is prepared in accordance with the timetable and any guidelines issued by the Executive.
- 5.3 The Executive shall consider the proposed forward financial plan and each year shall submit appropriate recommendations to the Council. The report shall include a recommendation as to the council tax to be levied in the following financial year.
- 5.4 The Chief Financial Officer shall provide financial information in an appropriate form for the continuous monitoring and control of financial activities of the council by the Executive and each Committee with finances allocated to it.
- 5.5 The Chief Financial Officer shall inform the Executive of any significant variation to the financial plan during the financial year. If for any reason any budget of approved expenditure may be exceeded or the estimated income not reached, the Chief Financial Officer shall inform the Executive -or relevant Committee together with a proposal to address the situation.
- 5.6 Any proposal to incur expenditure, either capital or revenue, above those limits set out in the council's budget and policy rules, that is not included in the existing financial plan or budget shall be recommended by the Executive to the Council. The recommendation must include the full financial implications of the proposal.

6.0 Expenditure

6.1 Official orders

~~6.1.6.1.1~~ 1(a) Official orders shall be issued using the council's financial system, for all works, goods or services to be supplied to the council except for supplies of public utility services, for periodical payments such as rent or rates, for petty cash purchases or other exemptions approved by the Chief Financial Officer.

~~6.1.2(b)~~ 6.1.2 Procurement of works, goods or services to be supplied to the council shall be completed in accordance with the council's Contract Procedure Rules.

~~6.1.3(e)~~ 6.1.3 Official orders shall specify the nature and quantity of goods, services, or works required, any relevant contract, and the agreed prices.

~~6.1.4(d)~~ 6.1.4 Official orders shall not be issued for works, goods or services unless the cost is within an approved estimate or other financial provision.

6.2 Certificates for payment

6.2.1 ~~6.2.1(a)~~ — All certificates for payment shall be authorised for payment by the signature, or electronic signature (approval) via the council's financial management system, of the appropriate budget holder or other authorised signatory, as agreed by the Chief Financial Officer. Such authorisation shall imply that:

- (~~ai~~a) the expenditure is within an approved estimate or other financial provision;
- (~~ii~~b) the expenditure has been coded to the correct financial heading;
- (~~iii~~c) the goods, services or works have been supplied and are satisfactory;
- (~~iv~~d) appropriate prices have been charged for the goods, services or works;
- (~~v~~e) all conditions imposed by the order or contract agreement have been substantially complied with;
- (~~vi~~f) where applicable Value Added Tax, Construction Industry Tax or any other relevant taxation requirements are complied with;
- (~~vii~~g) the certificate for payment has not previously been passed to the Chief Financial Officer for payment; and
- (~~viii~~h) appropriate entries have been made in all relevant inventories, stock records or asset registers.

~~6.2.3~~6.2.2 ~~(c)~~ — To reduce multiple certificates for payment, budget holders should aim to agree payment within 30 days of receipt of invoice. Invoices will be paid by BACS where possible.

~~6.2.4~~(d) ~~6.2.3~~ — The Chief Financial Officer shall examine accounts passed for payment and shall make such enquiries and receive such information as necessary to establish that the payments are in order. Advance accounts (petty cash, change floats and the like).

~~6.2.5~~(e)6.2.4 The Chief Financial Officer may provide advance accounts to designated officers for petty cash or for change float purposes.

~~6.2.6~~(f)6.2.5 The maximum limit of advance accounts shall be agreed with the Chief Financial Officer and not exceeded without permission of the Chief Financial Officer. Appropriate safes and other receptacles shall be provided as required.

~~(g)~~6.2.6 ~~6.2.7~~ — The officers responsible for advance accounts shall maintain a record of their transactions in the form and manner required by the Chief Financial Officer.

~~(h)~~6.2.86.2.7 Payments from advance accounts shall be limited to minor items of expenditure not exceeding £20. The claim must be supported by a receipted voucher and properly authorised claim form.

~~6.2.9~~(i)6.2.8 Officers with responsibility for an advance account shall be required to provide information about the state of the account to the Chief Financial Officer as necessary.

~~6.2.10~~(j)6.2.9 If the advance account is no longer required or an officer ceases to be responsible for holding an account, the relevant budget holder shall ensure that the balance of the advance account is returned to the Chief Financial Officer.

7.0 Income

7.1 Budget holders shall notify the Chief Financial Officer of all money due to, or expected by, the council. This includes sponsorship or grant income, contracts, leases and other agreements entered into which involve the receipt of monies.

- 7.2 Where cheques are paid in, the amount of each cheque and a reference to enable the cheque to be traced shall be recorded on the banking paying-in-slip or a format agreed with the Chief Financial Officer.
- 7.3 An official receipt is a written or printed acknowledgement given on behalf of the council for monies received. Such acknowledgement shall be given from a cash receipting system which has been approved for use by the Chief Financial Officer.
- 7.4 All monies shall be held and transported securely in accordance with any requirements from the Chief Financial Officer.
- 7.5 Each budget holder is responsible for ensuring that accounts are promptly and accurately raised in respect of charges for work done or goods or services supplied. This includes cases where sponsorship money or grant income is due.
- 7.6 The Chief Financial Officer may write off irrecoverable debts up to a limit of £10,000 in any one case. Irrecoverable debts in excess of this amount shall be referred to the Executive.

8.0 Contracts

- 8.1 All contracts made for and on behalf of the council shall be subject to the Contract Procedure Rules, these FPRs and any other statutory provision, except in circumstances where the council is acting as an agent for another organisation which specifically directs otherwise.
- 8.2 The Chief Financial Officer shall maintain a register of payments due and made under formal contracts over £50,000 to show the state of account on each contract between the council and the contractor, together with any other payments.
- 8.3 Payment on account of the contract sum shall be made only on a certificate signed by the appropriate budget holder. The certificate shall show, as a minimum, the total amount of the contract, the value of work executed to date, retention money, amount paid to date and the amount now certified.

8.4 Before a certificate for final payment under a contract is paid, the appropriate budget holder shall produce to the Chief Financial Officer a detailed written statement of account, together with such other documents as may be required.

8.5 Subject always to the council's Contract Procedure Rules in Part 4H of this Constitution, the appropriate budget holder shall be empowered to authorise a variation or addition to a contract. Where the variation or addition is estimated to result in a material increase, that is the higher of 5% of the contract value or £10,000, it must be approved in advance by the Chief Financial Officer.

~~The appropriate budget holder shall be empowered to authorise an extra, or variation in a contract. Where the variation is estimated to result in a material increase (5% or greater) in the contract sum it shall be reported to the next meeting of the Executive.~~

8.6 Where completion of a contract is delayed, except for reasons qualifying for an extension of the contract, it shall be the duty of the budget holder to supply the Chief Financial Officer with all necessary information to allow the correct amount of Liquidated and Ascertained Damages to be claimed.

9.0 Treasury Management

9.1 The council has adopted the Chartered Institute of Public Finance and Accountancy (CIPFA) 'Code for Treasury Management in Local Authorities'. If deemed necessary, the Chief Financial Officer shall advise the Executive of any significant amendment to the CIPFA Code.

9.2 The Chief Financial Officer shall be authorised to make investment, borrowing and financing decisions on behalf and in the name of the council. All decisions shall be taken in accordance with the council's Treasury Management Investment Strategy.

9.3 All monies held by the council shall be aggregated for the purposes of treasury management and shall be under the control of the Chief Financial Officer.

9.4 All investments and borrowing, including for any Trust administered by the council, shall be made in the name of the council and any deeds relating to such funds shall be deposited

with the Monitoring Officer or otherwise as deemed appropriate by the Chief Financial Officer.

- 9.5 The Chief Financial Officer is given the authority to deal with any emergency situation that may arise in relation to any matters not already delegated within the Treasury Management Policy. Use of emergency authority will be reported at the next meeting of the Executive.

10.0 Staffing

- 10.1 The Head of Human Resources and Organisational Development shall make and control arrangements for the payment of salaries, wages, expenses and benefits to officers in accordance with the approved salary scales and wage rates.

- 10.2 The Head of Human Resources and Organisational Development shall be provided with the appropriate documentation required to ensure the payment of salaries, wages, pensions and other expenses due to officers.

- 10.3 All claims for payment must be made as soon as possible and in no circumstances should a claim be delayed for more than three months after the date on which the work was done or the expenses incurred.

- 10.4 Matters which affect officer payments shall be referred direct to the Head of Human Resources and Organisational Development. Notification shall include:

10.4.1(a) ___ details of all appointments, resignations, dismissals, suspensions, secondments and transfers;

10.4.2(b) ___-details of any training;

10.4.3(c) ___ changes in remuneration except for national pay increases;

10.4.4(d) ___ absence from duty for sickness or other reason, apart from approved leave; and

(e)10.4.5 ___ information necessary to maintain records for pension, income tax, national insurance and the like.

- 10.5 The Head of Human Resources and Organisational Development shall maintain appropriate records and make arrangements for the payment of sums due to Members in accordance with the Allowance Scheme approved by the Council.

11.0 Insurance

- 11.1 The Chief Financial Officer shall make and control arrangements for the provision of necessary insurance cover and for the negotiation of any insurance claims.
- 11.2 The Chief Financial Officer shall obtain competitive quotations from insurers for the provision of insurance at least every five years unless otherwise determined by the current contract term or the Executive.
- 11.3 All budget holders shall notify the Chief Financial Officer of all insurable risks arising from the activities carried out in their area of operation. Such notification shall include:
- 11.3.1(a) -the acquisition of any property which is capable of insurance against fire or other risks;
 - 11.3.2(b) any amendment to the value of any council-owned asset likely to affect the insurable risk; and
 - 11.3.3(c) any insurable risk which may arise through the activities of Members or officers of the council.
- 11.4 All Heads of Service shall notify the Chief Financial Officer of the occurrence of any event which may give rise to a claim under any policy of insurance held by the council or to an ex gratia payment.
- 11.5 The Chief Financial Officer shall be authorised to make the appropriate reimbursement of any insurance claim up to the excess limit of the insurance policy concerned.
- 11.6 The Chief Financial Officer shall in consultation with the Head of Human Resources and Organisational Development be authorised to make appropriate ex gratia payments and write off the loss of any stores, equipment and other assets up to £1,000.

- 11.7 All appropriate officers of the council shall be included in a suitable fidelity guarantee insurance.
- 11.8 Officers shall consult the Chief Financial Officer in respect of the terms of any indemnity which the council is requested to give.

12.0 Property

- 12.1 The Head of Strategic Finance and Property is the council's Asset Registrar and shall maintain an asset register and associated records of all land and buildings owned, leased or managed by the council.
- 12.2 An annual report of vacant and underused properties owned by the council shall be made to the Executive.
- 12.3 The Monitoring Officer shall have custody of and keep all title deeds in a secure manner.
- 12.4 Where land or buildings are no longer required for their intended use the Asset Registrar shall report to the Executive on the suggested future use, or disposal, of the asset.
- 12.5 All officers shall be responsible for maintaining proper security of [staff the officers](#) and assets under their control.
- 12.6 The Chief Financial Officer shall be responsible for ensuring that adequate controls and security procedures are maintained in connection with the council's information technology systems and installations.

Appendix 1: Scheme of Financial Delegations

	Financial limits of delegation					
Financial action	Council	Executive	Chief Executive	Chief Financial Officer	Heads of Service	Budget holders
Budget setting						
Annual approval of the Medium Term Financial Plan	No financial limit and no delegation of authority	No delegated authority	No delegated authority	No delegated authority	No delegated authority	No delegated authority
Approval of annual out-turn and subsequent required actions	No financial limit and no delegation of authority	No delegated authority	No delegated authority	No delegated authority	No delegated authority	No delegated authority
In year capital funding approval	No financial limit	Up to £500,000	Up to £250,000	Up to £100,000	No delegated authority	No delegated authority
Management of approved budgets						
Expenditure within approved capital and revenue budgets	Delegated to officers	Delegated to officers	Delegated to budget holders	Delegated to budget holders	Delegated to budget holders	Up to approved budget
Authority to use ear-marked reserves	Delegated to officers	Delegated to officers	Delegated to Chief Financial Officer	No financial limit	No delegated authority	No delegated authority
Purchase order approval and/or contract award	Delegated to officers	Delegated to officers	No financial limit	Up to £500,000	Up to £100,000	No authority unless delegated by Head of Service
Payment of grants	Delegated to officers	Delegated to officers	No financial limit	Up to £500,000	Up to £100,000	No authority unless delegated by Head of Service
Virements within a service's approved budgets	Delegated to officers	Delegated to officers	No financial limit	Up to £100,000	Up to £50,000	No authority unless delegated by Head of Service
Virements across services, within overall approved budget levels	Delegated to officers	Delegated to officers	No financial limit	Up to £100,000	No delegated authority	No delegated authority
Write offs / waivers of income due	No financial limit	Up to £100,000	Delegated to Chief Financial Officer / Heads of Service	Up to £25,000	Up to £5,000	No authority unless delegated by Head of Service
Insurance and other settlements	No financial limit	Up to £250,000	Up to £100,000	Up to £25,000	No delegated authority	No delegated authority

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Contract Procedure Rules

1. Introduction

- 1.1 These ~~c~~Contract ~~P~~procedure ~~r~~Rules (CPRs) have been issued in accordance with Section 135 of the 1972 Local Government Act and adopted by East Herts Council to give consistency to procurement across the council.
- 1.2 Procurement is the process by which the council manages the acquisition of all goods, services and works. It includes the identification of need, consideration of options and the actual procurement process.
- 1.3 Officers responsible for purchasing on behalf of the council (herein terms 'officers' within this Part 4H of the Constitution) must comply with these CPRs. They provide the minimum requirements although a more thorough procedure may be appropriate for specific contracts.
- 1.4 These CPRs provide a ~~corporate~~ framework for the procurement of all goods, services and works for the council. They are designed to ensure that all procurement activity is conducted with openness, probity and accountability. ~~Above all, t~~These CPRs are designed to ensure that the council obtains ~~value~~ Value for ~~money~~ Money and the required level of quality and performance in all contracts ~~that are entered into~~.
- 1.5 These CPRs must be read in conjunction with the relevant council's Constitution and ~~the~~ Procurement Strategy.
- 1.6 The disposal of assets and the acquisition, use and disposal of ~~Land~~ land and ~~Buildings~~ buildings are not covered by these CPRs and are to be considered alongside the Financial Procedure Rules.

- 1.7 For the purposes of these CPRs there is a requirement for all communication to be in writing except where otherwise specified. This shall be deemed to include electronic communication, use of e-procurement and fax transmissions or hard copy.
- 1.8 In the event of doubt as to the interpretation of the CPRs, take advice from the Monitoring Officer.

2. Basic principles

- 2.1 It is essential that the following EU Treaty Principles MUST be upheld in any procurement:

- (a) ~~Transparency~~ transparency – contract procedures must be transparent and contract opportunities must generally be publicised;
- (b) equal treatment and non-discrimination – potential suppliers must be treated equally;
- (c) proportionality – procurement procedures and decisions must be proportionate; and
- (d) mutual recognition – giving equal validity to qualifications and standards from other Member States, where appropriate.

- 2.2 In addition to the above, all procurement must:

- (a) comply with the council's Procurement Strategy, support the council's corporate and departmental aims, strategies, policies and procedure;
- (b) achieve ~~Best Value~~ for public money spent;
- (c) be consistent with the highest standards of integrity
- (d) comply with relevant legal requirements;
- (e) be undertaken in a timely fashion;
- (f) ensure that Non-commercial Considerations do not influence any Contracting Decision; and
- (g) be conducted in a sustainable manner, taking

environmental impact into account.

3. Exclusions

All Relevant Contracts must comply with these CPRs but some contracts which the council enters into are not defined as Relevant Contracts and so these CPRs do not automatically apply. These exclusions includedo not include:

- (a) the making of grant payments which are covered by the Financial Procedure Rules;
- (b) contracts of employment which make an individual a direct employee of the council;
- (c) the engagement of ~~Counsel~~counsel/Advocates advocates or other experts by the Legal Services Manager where such engagement falls outside an existing framework for the provision of legal services;
- (d) contracts where delay will adversely impact on the service delivery of the council and there is a prior specialised knowledge of a particular building or asset;
- (e) agreements regarding the acquisition, disposal, or transfer of land. Further guidance must be sought from the Chief Financial Officer;
- (f) the lending and borrowing of money, or
- (g) the purchase or sale by auction or at public fairs and markets;
- (h) the purchase of works of art or museum specimens, or
- (i) agreements in relation to performers and artists at festivals and arts programming; and
- (j) agreements under section -106 of the Town and Country Planning Act 1990 (as amended).

4. Exemptions

- 4.1 Where a contract is not excluded from these CPRs, that is, the CPRs are applicable, the council may still decide that all or part of these CPRs do not apply to a particular contract. If the council makes such a decision, this is termed an exemption from the CPRs.

- 4.2 It must be noted that if a ~~Where a~~ proposed contract's value is likely to exceed the EU Threshold then the council cannot apply any ~~there can be no~~ exemptions to these CPRs.
- 4.3 Exemptions are permissible if a proposed contract's value is likely to be ~~b~~Below the EU Threshold but such exemptions must only be sought in exceptional circumstances. Any and all such exemptions must be recorded as it counts as , being a Contracting Decision, ~~must be recorded.~~
- 4.4 Exemptions relating to proposed contracts with a likely value ~~b~~Between £50,001 and the EU Threshold any exemption must be approved by the ~~Officer-officer~~ and his or her Head of Service in consultation with the Head of Strategic Finance and Property. The ~~o~~Officer must produce evidence to support the request for any exemption. The Head of Service shall prepare a report for the next Executive to support the action taken. The Head of Service shall keep records of all exemptions granted along with reasons and supporting evidence for such exemptions.
- 4.5 Exemptions relating to proposed contracts with a likely value ~~b~~Below £50,000 any exemption must be approved by the ~~Officer-officer~~ and his or her Head of Service. —The ~~Officer-officer~~ must produce evidence to support the request for any exemption. There is no requirement to report. —The Head of Service shall keep records of all exemptions granted along with reasons and supporting evidence for such exemptions.
- 4.6 Exemptions are likely only to be granted in the following circumstances:
- (a) an unforeseeable emergency involving immediate risk to persons or property, or serious disruption to council services;

- (b) the goods or services are supplied at a fixed price or the prices are wholly controlled by trade organisations and the relevant Head of Service is satisfied that no satisfactory alternative is available;
- (c) the works to be executed consist of repair or supply of parts of existing propriety machinery or plant;
- (d) the items to be supplied consist of goods or services which are currently in use and are required for the purposes of standardisation;
- (e) the specialised nature of the goods, services to be supplied or the works to be executed means that only one suitable supplier has been identified or is available;
- (f) emergency action is required and/or immediate repairs are required to buildings, structures and other assets damaged by fire, flood or vandalism;
- (g) unforeseen works or circumstances where delay will adversely impact on the service delivery for the council or access to external funds; or
- (h) for a 'pilot' scheme where goods and services are procured on an experimental basis and considered to be the most appropriate approach for a particular scenario and where 'pilot' scheme is for a clearly defined period not exceeding 24 months and where agreed by relevant Service Manager/officer and the Procurement Manager.

4.7 If an exemption is sought which is not for any of the above reasons, advice must first be obtained from the Monitoring Officer in order to determine whether such an exemption can be applied. Exemptions for reasons not listed above will be acceptable only in exceptional circumstances.

5. Procurement thresholds and key requirements

Where the Total Value for procurement is within the values in the first column below, the Award Procedure in the

second column and the key requirements in the third column must be followed:

Total Value (excluding VAT)	Award Procedure	Key Requirements
Up to £1,000	<u>Go ahead (see section 9.1)</u>	<ul style="list-style-type: none"> If assured of value for money; just buy it from anywhere e.g. such as ASDA, eBay, Amazon, ARGOS, B&Q and the like.
£1,001-£10,000	Quick Quotation Procedure (<u>see section 9.2</u>)	<ul style="list-style-type: none"> Advertising through <u>In-Tend</u> e- procurement recommended Invite email or written quotation<u>Quotations</u> from <u>a</u> minimum <u>of</u> three suppliers No requirement to use Formal Quotation
£10,001 - £50,000 <u>50,000</u>	Formal Quotation Procedure (<u>see section 9.3</u>)(8.3)	<ul style="list-style-type: none"> Use of <u>In-Tend</u> e-procurement mandatory Invite <u>a</u> minimum <u>of</u> three quotation<u>Quotations</u> from three suppliers Use Formal Quotation tTemplate
£50,001 – EU Threshold	Formal Tender Procedure (8.4)	Use of e-procurement mandatory Must always consult the Procurement Manager Use Formal Tender Template Open Procedure recommended.
<u>£50,001 – EU Threshold</u>	<u>Formal Tender Procedure (see section 9.4)</u>	<ul style="list-style-type: none"> <u>Use of In-Tend e-procurement mandatory</u> <u>Use Formal Tender template</u> <u>Offers to be invited</u>

above EU Threshold	EU Tender Procedure (<u>see section 9.5</u>)(8.5)	<ul style="list-style-type: none"> • Must always consult the Procurement Manager and the <u>Legal</u> Services Manager (Legal) • Use of <u>In-Tend</u> e-procurement
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6. Officer responsibilities

- 6.1 Officers responsible for procurement must comply with these CPRs, Financial Procedure Rules, the Officers' Code of Conduct, and with all UK and European Union binding legal requirements. Officers must ensure that any Agent, Consultants and contractual partners acting on the ~~Council's-council's~~ behalf also comply.
- 6.2 Before requesting Quotations or inviting Tenders the ~~Officer~~
officer must:
- (a) explore whether there is an alternative to buying the goods, services or works;
 - (b) check with the Procurement Manager whether a ~~relevant-Relevant contract-Contract~~ exists before seeking to enter into a further contract; if such a ~~relevant-Relevant contract-Contract~~ exists, this must be used unless there is an auditable reason not to;
 - (c) check with the Procurement Manager whether a suitable Framework Agreement is available from any Contracting Authority or Professional Buying Organisations before starting a new procurement; where a suitable Framework Agreement exists, consideration must be given to procure from it unless there is an auditable reason not to;
 - (d) confirm that there is approval for the expenditure;
 - (e) seek timely procurement, legal, financial, and other professional advice; and
 - (f) keep records of all Contracting Decisions taken.
- 6.4 The ~~Officer-officer~~ must ensure that timely advice is sought from the Head of Legal and Democratic Services when any ~~employee-officer~~ either of the ~~Council's-council~~ or of a

service provider may be affected by the Transfer of Undertaking (Protection of Employment) Regulations 2006 (TUPE) issues before proceeding with inviting Tenders or Quotations.

7. Contract formalities

7.1 All ~~Contracts~~contracts shall be in writing.

7.2 Advice from the Procurement Manager must be sought for the following contract types:

(a) where the Total Value exceeds the EU Threshold;

(b) those involving leasing arrangements; ~~and~~or

(c) where it is proposed to use a supplier's own terms and conditions

7.3 All ~~c~~Contracts shall clearly specify:

(a) what is to be supplied, that is, the ~~w~~works/supplies, materials, services, matters or things to be furnished, acquired or done;

(b) the provisions for payment, that is, the price to be paid and when;

(c) whether the price stated is inclusive or exclusive of Value Added Tax;

(d) the time, or times, within which the contract is to be performed; ~~and~~

~~(e) the applicable terms and conditions, including, though not limited to, and~~

~~(e) the pro the provisions for the council to terminate the contract.~~

8. Procedure

8.1 Specification and Award Criteria

8.1.1 ~~(a)~~ The ~~Officer-officer~~ must prepare a specification document that describes the council's requirements in sufficient detail to enable the submission of competitive offers before starting a procurement process. The specification document must include performance targets and/or the criteria for acceptance and must be outcome or output based.

~~(b)~~8.1.2 Consideration must also be given by the ~~Officer-officer~~ to economical, environmental and social benefits of any proposed procurement to include consulting stakeholders where appropriate. Further information and advice can be obtained from the Procurement Manager.

~~(c)~~8.1.3 The ~~Officer-officer~~ must define Award Criteria and any sub criteria that are appropriate to the procurement and designed to secure an outcome giving Value for Money for the council. The basic criterion should be:

(ia) 'lowest price'; or

(iib) 'most economically advantageous', where considerations such as quality other than price also apply.

~~(d)~~8.1.4 Award Criteria must not include:

(ia) ~~non-commercial Considerations~~considerations that are in conflict with the principles of effective procurement as laid out in section 2 above;

~~;~~ or

(iib) ~~matters which discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement; nor~~

(c) ~~other Non-commercial Considerations.~~

~~matters which discriminate against suppliers from the or signatories to the.~~

~~(e)~~8.1.5 Good practice requires that quoted prices or tendered prices must not be altered without justification. However where there is a risk that a priced document may be subject to computational errors then the ~~Officer-officer~~ must decide, at the time that the specification is agreed, how such errors will be treated and this should be detailed within the ~~Specification~~specification. Further advice can be obtained from the Procurement Manager.

8.2 Advertisement of ~~quotation~~Quotation or ~~tender~~Tender opportunities

8.2.2 ~~(a)~~ Officers shall ensure that a sufficiently accessible advertisement is published to generate the appropriate level of interest in the contract. ~~In addition to advertisement through Contracts Finder, advertising may utilise: Examples of where such advertisements may be placed include:~~

- ~~(ia)~~ portal websites specifically created for contract advertisements; ~~to include local publications~~
- ~~(ii)~~ ~~and Contracts Finder;~~
- ~~(iib)~~ Construction Line or similar specialist portal websites created for contract advertisements;
- ~~(ivc)~~ the council's website;
- ~~(vd)~~ the council's Twitter account;
- ~~(vie)~~ national official journals; and
- ~~(viif)~~ the Official Journal of the European Union (OJEU), Tenders Electronic Daily (TED) (even if there is no requirement within the EU Procedure).

~~(b)~~8.2.3 The ~~Officer-officer~~ must ensure to give Bidders an adequate period in which to prepare and submit a Quotation or Tender consistent with the complexity of the contract requirement. Advice must be sought from the Procurement Manager but the following are recommended:

Quick Quotation	10 _Calendar Days
-----------------	-------------------

Formal Quotation	28 Calendar Days
Formal Tender	28 Calendar Days
EU Tender	The timescales are prescribed and vary according to procedure utilised

(e)8.2.4 No Quotation or Tender received after the date and time indicated in the Request for Quotation or Invitation to Tender shall be accepted or considered, other than **in** exceptional circumstances and the **Officer-officer** must consult with the Monitoring Officer and Procurement Manager.

9. Award procedure and detailed requirements

9.1 Go ahead (Up to £1,000)

9.1.1(a)—Where the estimated value of goods, works or services to be supplied is less than £1,000 the **Officer-officer** must be satisfied that the arrangements made secure the best available terms for the council.

9.2 Quick ~~quotation~~Quotation procedure (£1,001- £10,000)

9.2.1 (a) All requests for a Quotation where the contract has a value of under £10,000 shall be subject to the council's Standard Terms and Conditions unless other terms and conditions have been approved by **thean officer of the council's Legal Service.**

(b)9.2.2 Officers MUST be able to evidence that Quotations were sought from at least three suppliers.

(c)9.2.3 Officers are encouraged to use **the In-Tend** e-procurement portal.

(d)9.2.4 If e-procurement has not been used then the **Officer-officer** must ensure that:

(ia) the date and time of receipt of each Quotation is suitably recorded;

- (ii**b**) the details of the Quotation are not disclosed to any interested party;
- (iii**c**) there are no changes or amendments to the Quotation after submission; and
- (iv**d**) all Quotations are evaluated at the same time and that each Bidder is simultaneously advised in writing of the outcome.

9.3 Formal ~~Q~~uotation procedure (£10,001- £50,000)

~~(a)~~9.3.1 The Request for a Formal Quotation shall be issued through the In-Tend e-procurement portal ~~utilising~~ using the council's standard template ~~as appropriate for and shall specify the~~ supplies, services or works, making clear that ~~are required together with~~ the appropriate terms and conditions of contract as agreed with the council's Legal service. This approach will ~~and will state~~ make clear that no Formal Quotation will be considered unless it is received by the date, time and method stipulated.

~~(b)~~9.3.2 All organisations invited to provide a Quotation must be issued with the same information at the same time and subject to the same conditions.

~~(c)~~9.3.3 A minimum of three Formal Quotations shall be invited where the ~~Officer~~ officer is satisfied that competitive Quotations will be received from those three. Where the ~~Officer~~ officer is unsure of the market, consideration may be given to using an open process provided the ~~Officer~~ officer is satisfied that this will not generate an excessive volume of responses.

9.3.4 ~~(d)~~ Providing ~~clarification~~ Clarification of a Request for a Quotation to a Bidder is permitted and is provided for within In-Tend e-procurement.

9.3.5~~(e)~~ The ~~O~~fficer must consult with the Procurement Manager concerning the allocation of roles within the In-Tend e-procurement.

9.3.6(f) For the receipt and opening of a Formal Quotation there must be strict compliance with the requirements of In-Tend e-procurement.

9.4 Formal ~~tender~~Tender procedure (£50,001- EU Threshold)

9.4.1(a) All procurement above £50,000 shall be conducted in accordance with advice from the Procurement Manager and shall ~~be undertaken as~~

~~(i) (ii) (iii) (iv)~~ involve seeking offers through Tender in line with an open procurement approach.

9.4.2(b) ~~In all cases, sing~~the In-Tend e-procurement system should be used.

9.5(c) ~~Open-t~~Tender procedure

9.5.1 ~~(i)~~ The exact procedure will vary depending on the procurement method employed, however, The all stages of the process will be conducted Invitation to Tender shall be issued through the In-Tend e-procurement portal and shall specify the supplies, services or works that are required together with the appropriate terms and conditions of contract ~~as agreed with the Service Manager (Legal).~~ It should be made clear will also state that no ~~submission~~ Tender will be considered unless it is submitted via the In-Tend e-procurement portal.

9.5.2 ~~(ii)~~ All organisations invited to provide a Tender participate in the procurement process must be issued with the same information at the same time and subject to the same conditions. All dialogue with Bidders during the process must be dealt with and/or recorded using the In-Tend e-procurement portal.

9.5.3

~~(iii)~~ Providing ~~clarification~~ Clarification of any matter within the procurement process ~~an Invitation to Tender to Bidder~~ is permitted and is provided for within the In-Tend e-procurement.

9.5.4 ~~(iv)~~ For the receipt, ~~and~~ opening and/or handling of any submission made within the procurement process, ~~Tender~~ there must be ~~strict~~ compliance with ~~the requirements of In-Tend~~ e-procurement.

~~(v)~~ 9.5.5 The ~~Officer~~ officer must ensure that any contract is awarded in line with the delegated authority levels set out in the Financial Procedure Rules.

9.6

EU (European Union) Tender Procedure (above EU Threshold)

9.6.1 ~~(a)~~ All procurement above the EU Thresholds shall be conducted in accordance with the advice given in section 9.4 above, save that additional options are available, these being:

- open tender;
- restricted tender;
- competitive dialogue; or
- competitive dialogue with negotiation.

9.6.2 Furthermore, no procurement above the EU Thresholds shall proceed until the Procurement Manager has approved the proposed procedure process. Provisions, such as those relating to the receipt and opening of Tenders, must be followed exactly in accordance with the legislation.

9.6.3 ~~(b)~~ All transactions exceeding the EU Thresholds must be conducted in accordance with EU ~~P~~rocedures and must be advertised in the Official Journal of the European Union (OJEU) which is available ~~for~~ contractors in all member states to see and respond to. Strict rules govern the

process in relation to timescales, descriptions -and selection procedures and these are in addition to these ~~Contract~~ contract Procedure-procedure Rulesrules. Breaches of EU Procurement Rules are subject to harsh penalties for the ~~Contracting Organisation~~council. Advice must be sought from the Procurement Manager in all circumstances where there is a likelihood of the EU Thresholds being exceeded.

10. Collaborative arrangements

10.1 In order to secure Value for Money, the council may enter into collaborative procurement arrangements. The ~~Officer~~ officer must consult with the Procurement Manager in these circumstances.

10.2
10.2 All procurement made via a local authority procurement consortium or a Professional Buying Organisation (PBO) are deemed to comply with these CPRs and no exemption is required. However, procurements above the EU Threshold must be let under the EU Procedure, unless the consortium has satisfied this requirement already by letting ~~their-its~~ contract in accordance with the EU Procedures on behalf of the council and other consortium members.

10.3 Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the CPRs of the leading organisation, will be deemed to comply with these CPRs and no exemption is required. However, advice must be sought from the Procurement Manager.

10.4 Framework ~~agreements~~Agreements

~~(a)~~ A Framework Agreement may be entered into with one provider, or, where an agreement is concluded with several organisations, there must be at least three providers. Advice must be sought from the Procurement Manager when a Framework Agreement is being considered.

Contracts based on Framework Agreements may be awarded by either:

(ia) ~~Direct direct Call call Off off~~ — applying the terms laid down in the Framework Agreement (where such terms are sufficiently precise to cover the particular call-off) without reopening competition;¹⁷ or

(iib) ~~Mini-mini Competition-competition~~ — where the terms laid down in the Framework Agreement are not precise enough or complete for the particular call-off, by holding a mini competition.

11. Records and safekeeping

11.1 It is essential that for every ~~Procurement procurement~~ exercise a record is kept by the ~~Officer officer~~. Where ~~the~~ ~~In-Tend~~ e-procurement has been used then the system retains the records from after the Request to Quote or Invitation to Tender -has been issued up to the Contract Award.

11.2 Where the Total Value does not exceed £50,000, the following records must be kept:

(a) request to Quote and Quotations (including name of Bidder and price);

(b) any exemption and the reason for them;

(c) any ~~clarification~~ ~~Clarification~~ question and the answer;

(d) Award Criteria if the award is most economically advantageous; and

(e) written records or communications with the successful Bidder or an electronic record if written record of the transaction would normally not be produced.

11.3 Where the Total Value exceeds £50,000 the ~~Officer officer~~

must record:

- (a) the method for obtaining bids;
- (b) pre-~~tender~~Tender market research;
- (c) any Contracting Decision and the reasons for it;
- (d) any exemption together with the reasons for it;
- (e) the Award Criteria in descending order of importance and any sub criteria;
- (f) the Invitation to Tender sent to and received from the Bidder;
- (g) ~~clarification~~Clarification and post-~~tender~~Tender negotiation (to include minutes of meetings);
- (h) the contract documents;
- (i) post-contract evaluation and monitoring; and
- (j) communications with the Bidder and with the successful contractor throughout the period of the contract.

11.4 Records which relate to an unsuccessful Tender must be kept for a minimum period of one year from the start of the Contract.

11.5 Contracting Decisions and Post Tender Negotiation with the successful Bidder must be retained for one year after the term of the contract has expired whilst all other records must be retained for ~~6~~six years after the term of the contract has expired unless the ~~Contact~~contract is under seal when they must be retained for 12 years after the term of the contact has expired.

11.6 Details of all Renewable Contracts (regardless of value) are and shall be held on a Contract Rregister by the Procurement Manager to include:

- (a) the title of the contract and reference number;
- (b) the parties to the contract;
- (c) the name of the service and contract manager primarily responsible for the contract;
- (d) the estimated ~~total~~Total ~~value~~Value of the

contract or the estimated annual spend or budget;

(e) a description of the good, services and/or works provided

(e) the start date, end date, review dates and any date to which the contract may be extended; and

(f) the procurement method to include details of any Framework Agreement.

11.7 The original executed and completed copy of all contracts over the value of £50,000 and all contracts over the EU Threshold shall be passed to the council's Legal service for safe-keeping.

11.8 Heads of Service shall be responsible for the safekeeping of all other contracts falling within their designated functions.

11.9 Officers shall provide the Procurement Manager with a scanned copy of any completed contract as soon as practicable.

12. Evaluation, award of contract, and debriefing bidders

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

12.2 Contracts must be evaluated and awarded in accordance with the Award Criteria. During this process, **Officers** officers shall ensure that submitted prices are compared with any pre-process estimates and that any discrepancies are examined and resolved satisfactorily.

12.3 The arithmetic in compliant Quotations or Tenders must be checked. If computational-arithmetical errors are found in

the lowest or most economically advantageous bid, then advice must be sought from the Procurement Manager before they must be notified to the Bidder. Further the Request to Quote or Invitation to Tender must be reviewed to ascertain the procedure in these circumstances.

- 12.4 Officers may accept the receipt of Quotations and Tenders ~~received~~ in respect of proposed contracts, provided that they have been sought and evaluated fully in accordance with these CPRs and they do not exceed the budget provision. Unless all Tenders are required to be vetted as part of the selection process, ~~Only~~ the successful Bidder will be subject to the appropriate Financial Vetting~~.-~~
- 12.5 Where the Total Value is above the EU Threshold, the ~~Officer-officer~~ must notify all Bidders simultaneously and as soon as possible of the intention to award the contract to the successful Bidder. The ~~Officer-officer~~ must provide unsuccessful Bidders with a period of time in line with the requirements of the Public Contracts Regulations 2015, typically at least ten days, in which to challenge the decision before the ~~Officer-officer~~ awards the contract. If the decision is challenged by an unsuccessful Bidder, then the ~~Officer-officer~~ shall not award the contract and shall immediately seek the advice of the Legal Services Manager ~~(Legal)~~.
- 12.6 The ~~Officer-officer~~ shall debrief in writing all those Bidders who submitted a Tender about the characteristics and relative advantages of the leading Tenderer. No information, other than the following, must be given without taking the advice of the Procurement Manager:
- (a) how the Award Criteria were applied; and
 - (b) the prices or range of prices submitted, in either case not correlated to Bidders' names.

12.7 If a Bidder requests in writing the reasons for any Contracting Decision (to include those deselected in any pre-~~tender~~Tender shortlisting process) the ~~Officer~~officer must give the reasons in writing within 15 days of receipt of the request. Guidance must be sought from the Procurement Manager.

13. **Post-~~tender~~Tender negotiation**

13.1 Post-~~tender~~Tender negotiation means discussions with a Bidder, or a number of Bidders, and can be a useful tool in making improvements to Quotations or Tenders. It can ensure that the ~~Council~~council obtains true value for money by purchasing an acceptable finished product at a competitive but fair market price, within the time stipulated. It can also ensure that potential suppliers have no misunderstandings as to their exact obligations under the terms of any contract.

13.2 Advice must be obtained from the Procurement Manager prior to entering into any Post-Tender Negotiations. Where post- ~~tender~~Tender negotiation results in a material change to the specification (or contract terms) the contract must not be awarded and must ~~be~~ re-tendered.

13.3 Negotiations must not take place unless the Formal Quotation or Tender specifically reserves the right to do so. Any negotiations will occur following the closing date for receipt of Quotations or Tenders but before award of the contract.

**TO BE COMBINED WITH
OVERALL GLOSSARY AT THE
END OF THE PROOF-READING
PROCESS**

Glossary of Terms

Agent	A person or organisation acting on behalf of the Council <u>council</u> or on behalf of another organisation.
Award Criteria	The criteria by which the successful Quotation or Tender is to be selected.
Award Procedure	The procedure for awarding a contract.
Best Value	The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the council. [See also Value for Money].
Bidder	Any person, firm or organisation who asks to be or is invited to submit a quotation <u>Quotation</u> or Tender.
Bond	An insurance policy in the form of either a Performance Bond or a Guarantee Bond: if the contractor does not do what it has promised under a contract with the council, the council can claim from the insurer the sum of money specified in the bond. A bond is intended to protect the council against a level of cost arising from the contractor's failure.
Executive	The Council's Executive as defined in the Constitution.
Executive Member	A member of the Executive to whom political responsibility is allocated in respect of specified functions.

Clarification	<p>A request for information from a bidder during the process. The information, if supplied, is to be provided to all Bidders.</p> <p>Alternatively additional information to be supplied to all Bidders during the process.</p>
Constitution	The legally binding constitutional document approved and adopted by the council which:

	<p>allocates powers and responsibility within the council and between it and others</p> <p>delegates authority to act to the Executive, Committees, Portfolio Holders, Director or Heads of Service and Officers</p> <p>regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.</p>
Consultant	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, <i>and</i> where the council has no ready access to employees-officers with the skills, experience or capacity to undertake the work.
Contract Award	Process by which the successful bidder and the unsuccessful bidders are advised of the outcome of the evaluation.
Contract Register	The register to be kept and maintained by the Procurement Manager recording details of all renewable-Renewable contracts-Contracts entered into by the council.
Contracting Authority	An authority that has established a Framework Agreement that is available for use by other organisations within the Public Sector.
Contracting Decision	<p>Any decisions which impacts on either the procedure or the outcome of the process to include:</p> <ul style="list-style-type: none"> • withdrawal of Invitation to Tender • whom to invite to submit a Quotation or Tender • shortlisting • award of contract • termination of a contract.
E-procurement	A secure means to store and transmit Expressions of Interest, Invitations to Tender and other documentation in relation to Tenders (e.g. to receive queries from Candidates, and to issue Tender clarifications, Invitations to Submit Outline and Detailed Proposals, and Best and Final Offers), and then to receive and manage Tenders

	electronically via the Internet. Any process used must be compliant with HMG Information Security Standards, the requirements of the Manual of Protective Security and all UK legislation relevant to the processing of information.
EU Procedure	The procurement procedure required to be followed by the EU where the Total Value exceeds the EU Threshold.
EU Threshold	The contract values at which the EU public procurement directives apply, as amended from time to time.
E U Treaty Principles	The principles enshrined within the various Treaties. Although these apply directly to all procurement activity above the E U Threshold, they should apply, as a matter of good practice, to all procurement regardless of value.
European Economic Area	The members of the European Union, and Norway, Iceland and Liechtenstein.
<u>Executive</u>	<u>The council's Executive as defined in the Constitution.</u>
<u>Executive Member</u>	<u>A member of the Executive to whom political responsibility is allocated in respect of specified functions.</u>
Financial Procedure Rules	The council's financial regulations incorporated within its Constitution.
Financial Vetting	The process by which Officers <u>officers</u> appointed by the Head of Strategic Finance and Property review the information supplied by the Bidder or Bidders to establish their financial suitability .
Formal Quotation	To process of obtaining a quotation <u>Quotation</u> using the e-procurement portal. Officers can either invite a number of suppliers to submit Bids or, alternatively, use the open process whereby the project is advertised generally and any supplier can submit a bid.

Framework Agreement

An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged. Examples of Framework Agreements include those awarded by the

	Government Procurement Service and others.
Government Procurement Agreement	The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European Economic Area are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.
Government Procurement Service	Government Procurement Service (formerly Office of Government Commerce Buying Solutions).
Head of Legal and Democratic Services	As identified in the Constitution or another officer of the Council nominated by the Head of Legal and Democratic Services for the purposes of these Contract Procedure Rules and in a specific procurement exercise.
Head of Strategic Finance and Property	As identified in the Constitution or another officer of the Council nominated by the Head of Strategic Finance and Property for the purposes of these Contract Procedure Rules and in a specific procurement exercise.
Head of Service	An Head of Service as identified in the Constitution or another officer of the Council nominated by one of these to act in the capacity of Head of Service for the purposes of these Contract Procedure Rules and in a specified procurement exercise.
High Profile	A high-profile procurement is one that could have an impact on functions integral to council service delivery should it fail or go wrong.
High Risk	A high-risk procurement is one which presents the potential for substantial exposure on the council's part should it fail or go wrong.
High Value	A high-value procurement is where the value exceeds the EU Threshold.
Invitation to Tender	Invitation to tender <u>Tender</u> documents in the form required by these Contract Procedure Rules.

Key Decision	Decisions that are defined as key decisions in the Constitution.
Line Manager	The Officer's immediate superior or the Officer designated by the Director or Head of Service to exercise the role reserved to the line manager by these Contract Procedure Rules.
Monitoring Officer	As identified in the Constitution.
Nominated Suppliers and Sub-Contractors	Those persons specified in a main contract for the discharge of any part of that contract.
Non-commercial Considerations	<p>Considerations which may either be brought to the attention of the officer and may be within his <u>or her</u> own knowledge but have no significance when evaluating a potential bidder. To include:</p> <ul style="list-style-type: none"> • The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of, or the other opportunities afforded to, their workforces ('workforce matters'). • Whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self- employed persons of their services only. • Any involvement of the business activities or interests of contractors with irrelevant fields of government policy. • The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes'). • The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors.

	<ul style="list-style-type: none"> Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees. Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support. Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984. Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply.
Officer	The officer designated by the Head of Service to deal with the contract in question.
Officers' Code of Conduct	The Officers' Code of Conduct adopted by the council and regulating conduct of Officers <u>officers</u> , as incorporated into the Constitution.
Parent Company Guarantee	A contract which binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Council, the Council can require the parent company to do so instead.
Post Tender Negotiations	In limited circumstances negotiations can take place with Bidders after the evaluation process has been completed and prior to the Contract Award.
Procurement Manager	The Officer appointed by the Head of Strategic Finance and Property to provide Procurement advice across the Council.
Procurement Strategy	The document setting out the council's corporate approach to procurement and key priorities.

Procurement Toolkit	The suite of internal guidance documents, together with a number of standard documents and forms, available on the intranet, which supports the implementation of these Contract Procedure Rules.
Professional Buying Organisation	An organisation established by one or more authorities for the sole purpose of setting up Framework Agreements thereby enabling collaborative purchasing.
Quick Quotation	A simplified quotation <u>Quotation</u> process whereby a number of quotation <u>Quotations</u> are sought from at least 3 suppliers without using the e-procurement portal.
Quotation/Quote	A quotation <u>Quotation</u> of price and any other relevant matter (without the formal issue of an Invitation to Tender). See also Quick Quotation and Formal Quotation.
Relevant Contract	Contracts to which these Contract Procedure Rules apply.
Renewable Contract	Contracts which are for repeatable purchases of Goods or Services or Works and are not one-off purchases.
Request for Quotation	Request for Quotation documents in the form required by these Contract Procedure Rules.
Service Manager	The Line Manager's immediate superior.
Service Manager (- Legal)	As identified in the Constitution.
Shortlisting	The process of selecting Candidates who are to be invited to quote or bid or to proceed to final evaluation.
Specification	A clear description of the requirements under the Contract. The amount of detail will vary according to the value and complexity of the purchase.
Standard Terms and Conditions	The terms and conditions agreed by the Council <u>council</u> as being applicable in all contracts as an alternative to either bespoke Terms and Conditions or the Terms and

	Agreement.
Tender	A c Candidate's proposal submitted in response to an Invitation to Tender.
The Public Contracts Regulations 2006	The Public Contracts Regulations 2006 (SI 2006 No. 5), as amended or replaced from time to time.
Total Value	<p>The whole of the value or estimated value (in money or equivalent value) for a single procurement or disposal calculated as follows:</p> <ul style="list-style-type: none"> (a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period (b) where the procurement involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months (c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48 (d) for feasibility studies, the value of the scheme or contracts which may be awarded as a result (e) for Nominated Suppliers and Sub-contractors, the total <u>Total</u> vValue shall be the value of that part of the main contract to be fulfilled by the Nominated Supplier or Sub-contractor.
TUPE	<p>Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006 No. 246): subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the Council <u>council</u> is transferred from one organisation (e.g. for example a private contractor or local authority in-house team) to another (e.g. for example, following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to</p>

	<p>enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.</p>
Value for Money	<p>Value for money is not the lowest possible price; it combines goods or services that fully meet the council's needs, with the level of quality required, delivery at the time the council needs it, and at an appropriate price.</p>

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PART 5

Codes and Protocols

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Members' Code of Conduct

~~As a member~~ Members ~~or co-opted member~~ of East Hertfordshire District Council have a responsibility to represent the community and work constructively with ~~our~~ staff officers and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act 2011 provisions and the Seven Principles of Public Life (known as the Nolan Principles), when acting in this capacity ~~members must~~ be committed to behaving in a manner that is consistent with the following principles to achieve best value for ~~our~~ residents and maintain public confidence in this authority.

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in East Hertfordshire District Council this will be done as follows:

1.0 INTERESTS

1.1 Interests – Disclosable Pecuniary Interests **General**

A Member, present at a meeting of the Authority Council, or any committee, sub-committee, joint committee or joint sub-committee of the Authority Council, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:

- (a) M must not participate in any discussion of the matter at the meeting;
- (b) M must not participate in any vote taken on the matter at the meeting;
- (c) M must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
- (d) If the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
- (e) M must leave the room while any discussion or voting takes place, unless he or she has requested and obtained a written dispensation from the Council's Monitoring Officer in advance of the relevant meeting.

2.0 Register of interests

2.1 Disclosable Pecuniary Interests

- (a) Within 28 days of becoming a member of the Council, each member must register any Disclosable Pecuniary Interests (DPIs) he or she may have for publication in the Register of Members' Interests (and notify the Council's Monitoring Officer of any changes thereafter within 28 days). (See Appendix A to this Code.)

2.2 Non Pecuniary Interests

- (a) Within 28 days of becoming a member of the Council, each member must register any ~~Local~~ Non Pecuniary Interests (LNPIs) (and notify the Council's Monitoring Officer of any changes thereafter within 28 days). Members may participate in any discussions or debates relating to or concerning any LNPIs after the date of registration. (See Appendix A to this Code)

2.3 Further General Guidance

- (a) Each member must declare any DPIs or LNPIs to a meeting where business is relevant to those interests, including those interests that are already registered with the Monitoring Officer or where registration is pending.
- (b) Each member must register, within 28 days, any gifts or hospitality received in accordance with the instructions issued within the Council by the Monitoring Officer.
- (c) The Council's Register of Interests will be available for inspection at the Council offices during normal office hours, and will be published on the Council's website.

~~Any interests notified to the Monitoring Officer will be included in the register of interests.~~

~~A copy of the register will be available for public inspection and will be published on the authority's website.~~

3.0 Sensitive interests

Where ~~a Member~~you considers ~~that disclosure of the details~~ an interest could ~~lead to~~you~~that Member~~, or a person connected with ~~you~~them, being subject to ~~violence or intimidation, and the Monitoring Officer agrees, the interest may be excluded from the register.~~, if the ~~interest is being entered on the register that are made available for inspection and an published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.~~ The register may state that the member or co-opted member has an interest, the details of which are withheld.

4.0 OTHER Member Conduct

4.1 Each member~~As a Member~~ of East Hertfordshire District Council should ensure that his or her,~~my~~ conduct ~~will in particular~~ addresses the statutory principles of the code of conduct by:

- (a) Championing the needs of all East Hertfordshire residents – the whole community and in a special way my~~his or her~~ constituents, including those who did not vote for ~~me~~him or her - and putting their interests of residents first.
- (b) Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- (c) Not allowing other pressures, including the member's financial interests ~~of myself or~~ financial interests of others connected to ~~me~~him or her, to deter ~~me~~ from pursuing constituents' casework, the interests of the Authority's Council's area or the good governance of the authority Council in a proper manner.
- (d) Exercising independent judgement and not compromising my~~his or her~~ position by placing myself~~him or herself~~ under obligations to outside individuals or organisations who might seek to influence the -way in which the member- performs my~~his or her~~ duties ~~as a member/co-opted member of this authority~~.
- (e) Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- (f) Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- (g) Contributing to making the is authority Council's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those

decisions and to be informed when holding ~~me and other~~ members to account, but restricting access to information when the wider public interest or the law requires it.

- (h) Behaving in accordance with all ~~our~~ legal obligations, alongside any requirements contained within ~~this~~ authorityCouncil's policies, protocols and procedures, including ~~on those relating to~~ the use of the Authority's Council's resources.
- (i) Valuing my member colleagues and staff officers and engaging with them in an appropriate manner and one that underpins the mutual respect ~~between us~~ that is essential to good local government.
- (j) Always treating people, organisations and the public with respect, ~~including the organisations and public I engage with and those I work alongside.~~
- (k) Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the ~~is~~ authorityCouncil.
- (l) Having regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

4.2 Members must not:

- (a) Do anything which may cause the Council to breach any of the Council's duties under the Equality Act 2010
 - (i) bully any person;
- (b) Intimidate or attempt to intimidate any person who is or is likely to be:
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member

(including myself) has failed to comply with his or her Council's code of conduct; or

- (c) Do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council. For the avoidance of doubt, - any breach of the Member /Officer Protocol may be regarded as a breach of this Code.
- (d) Disclose information provided in confidence by anyone, or information acquired which the member believes, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) the member has the consent of a person authorised to give it;
 - (ii) the member is required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is reasonable, in the public interest, made in good faith and in compliance with the reasonable requirements of the Council; or
- (e) Prevent another person from gaining access to information to which that person is entitled by law
- (f) conduct him or herself in a manner which could reasonably be regarded as bringing his or her office or the Council into disrepute.
- (g) Use or attempt to use his or her position as a member improperly to confer on or secure for themselves or any other person, an advantage or disadvantage; and
- (h) When using or authorising the use by others of the resources of the Council

- (i) act in accordance with the Council's reasonable requirements;
- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes).

5.0 Decision Making

5.1 When reaching decisions on any matter Members must have regard to any relevant advice provided to them by:

- (a) the Council's Chief Financial Officer; or
- (b) the Council's Monitoring Officer,

where that officer is acting pursuant to his or her statutory duties.

5.2 Members must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

Appendix A

Part 1

Description of categories of Disclosable Pecuniary Interests

A member has a Disclosable Pecuniary Interest in any business of the Council if it is of a description set out in 1 - 7 below and is either:

- (a) An interest of the Member
- (b) An interest of the Member's spouse or civil partner
- (c) An interest of a person with whom the Member is living as husband and wife or as civil partners

and, in the case of paragraphs (b) and (c), the Member is aware that they have the interest.

In these descriptions the term "relevant person" is used to mean the individual as Member and any such person as set out in paragraphs (b) and (c)

1 Any employment, office, trade, profession or vocation carried on for profit or gain.

2 Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred in carrying out their duties as a member, or towards his or her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

3 Any beneficial interest in securities of a body where —

(1) that body (to his or her knowledge) has a place of business or land in the area of the Council and

(2) either:

(a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

4 Any contract which is made between the relevant person, or a body in which they have a beneficial interest, and the Council

(1) under which goods or services are to be provided or works are to be executed; and

(2) which has not been fully discharged.

5 -Any beneficial interest in any land in the Council's area.

6 Any tenancy where to the Member's knowledge (a) the landlord is the Council and (b) the tenant is a body in which a relevant person has a beneficial interest.

7 Any licence (alone or jointly with others) to occupy land in the Council's area for a month or longer.

Part 2

Description of categories of ~~Local~~ Non Pecuniary Interests

(1) Any body of which he or she is a member or in a position of general control or management and to which he or she appointed or nominated by the Council;

(2) Any body-

(a) exercising functions of a public nature;

(b) directed to charitable purposes; or

(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union); of which he or she is a member or in a position of general control or management

(d) ~~(3)~~ any close friend or relative entering or seeking to enter into an arrangement in any capacity with the ~~authority~~Council

ⁱ
(43) Any person from whom the Member has received a gift or hospitality with an estimated value of at least £25.



East Herts Council

Officers' Code of Conduct

Policy Statement

Policy Statement No 154 (Issue No 2)
January May 2013 2018

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CODE OF CONDUCT

Policy Statement No 14 (Issue No 2) January 2013

1.0 Introduction

1.1 The public are entitled to expect the highest standards of conduct from all council ~~employeeofficerofficers~~. This code incorporates points from existing laws, regulations and conditions of service for the guidance of all ~~staffofficers~~. The aim of the code is to help maintain and improve standards and protect ~~employeeofficerofficers~~ from misunderstanding or criticism; it must be read and followed by all ~~employeeofficerofficers~~. This code is complementary to the council's policies and ~~Staffofficer~~ procedures, which are kept by Head of Services for reference, as they give fuller details on some items. All of the council's policies and procedures can be accessed via the Intranet.

1.2 This code applies to all officers including those professionally qualified ~~staffofficers~~ who may be subject to codes of conduct or ethics imposed by their own professional bodies. In the unlikely event of a conflict arising between this code and an external code or requirement then the officer concerned must refer the issue to the Monitoring Officer for guidance.

2.0 Standards and behaviour

2.1 Council ~~employeeofficerofficers~~ are expected to give the highest possible standard of service to the public and provide appropriate advice and information to ~~CouncillorMembers~~ and fellow ~~employeeofficerofficers~~. These standards apply equally to all interactions, whether they are face-to-face or undertaken through the use of online media.

2.2 The council's Dignity at Work statement sets out the behaviours expected of ~~staffofficers~~ when dealing with each other and members of the public. These are detailed below:

- (a) ~~We~~ All officers need to listen to, value and respect each other as individuals with a contribution to make to ensure that East Herts Council achieves its aims.
- (b) Everyone is different and has something unique to offer. The council wants to respect and understand these differences and to make the most of everyone's talents.
- (c) The council's ~~Corporate Management Team~~ Leadership Team and managers at all levels will demonstrate their commitment to promoting equality and diversity.
- (d) All ~~staff~~officers have a personal responsibility to treat everyone with respect, consideration and without prejudice and to promote the same levels of behaviour in colleagues.

2.3 ~~Employee~~Officer~~Officers~~ are expected to report any deficiency in the provision of service to the appropriate manager. They must report any impropriety or breach of rules or procedure to the manager concerned. Concerns about another ~~Officer or Member~~ can be raised through the Confidential Reporting Code~~employee~~officer~~officer~~ can be raised through the Disclosure (Whistleblowing) Code. Any disclosure raising suspicion of wrongdoing by a Member could result in being dealt with as a breach of the Members' Code of Conduct.

3.0 Working within the law

3.1 It is very important that all officers behave and work at all times within the law. In order for council decisions and actions to be held to be reasonable in law, the council must carry out its business in a way that is rational, proper and fair. ~~Unlawful behaviour at, or even away from work could result in a loss of trust and confidence in the employee or the Council.~~

3.2 It is important that ~~employee~~officer~~officers~~ uphold the law at work, and it is important that ~~staff~~officers do not break a law away from work which could damage public confidence in them or the council,

or makes them unsuitable for the work they do. This includes, for example:

- (a) submitting false or fraudulent claims to the council or other public bodies (for example, income support, housing or other benefit claims);
- (b) breaching copyright on computer software;
- (c) crimes of dishonesty which might make an ~~employee~~officer unfit to hold a position of trust;
- (d) accepting a bribe.

3.3 If ~~employee~~officers are charged with or convicted of a crime which may affect their job they must inform their line manager or Human Resources immediately.

4.0 Communication

4.1 The way ~~we~~ officers communicate is pivotal to helping us achieve the council's vision and priorities. The council's Communication Strategy sets out a framework to enhance and protect the reputation of the council by proactively and systematically providing clear, co-ordinated and effective communication and engagement. The strategy is also designed to complement the council's engagement with its communities and stakeholders by communicating through partnerships and networks of influence.

5.0 Disclosure of information

5.1 The law requires that certain types of information must be available to Members, auditors, government departments, service users and the public. Managers will advise their ~~staff~~officers what information should be given and what is confidential. Personal information is generally considered to be confidential and anyone in doubt should check with their line manager prior to providing information to contacts.

25.2 ~~Employee~~~~Officer~~~~Officers~~ should not use any information, obtained in the course of their employment, for personal gain or benefit, nor should they pass it to others who might use it in such a way. Any personal information from a ~~Councillor~~~~Member~~ should not be divulged without the ~~Councillor~~~~Member~~'s approval, except where required by law.

5.3 ~~Employee~~~~Officer~~~~Officers~~ must not communicate confidential information or documents to others who do not have a legitimate right to know.

5.4 Where information is disclosed, this must be done in accordance with the requirements of the Data Protection Act 1998 and Freedom of Information Act 2000 and the General Data Protection Regulations (Regulation (EU) 2016/679) and associated legislation.

6.0 Social media

6.1 ~~Employee~~~~Officer~~~~Officers~~ should exercise caution when using personal social networking websites and must not:

- (a) comment on the work of the ~~C~~ council such that it brings the ~~authority~~ council into disrepute;
- (b) comment on other ~~members of staff~~~~officers~~ or Members of the council;
- (c) conduct themselves in a way that brings the ~~authority~~ council into disrepute; and
- (d) allow interactions to damage working relationships between ~~staff~~~~officers~~, Members and any of the Council's residents, clients or customers.

Please see the Social Media Policy for further information.

7.0 IT facilities

- 7.1 The council's IT systems are essential for the successful operation of council business. ~~Employee~~Officer~~Officers~~ must read the IT User Policy so that they understand how to use the IT systems effectively.
- 7.2 Please note that the use of the Internet, email and other systems will be monitored in accordance with IT policies and if appropriate disciplinary action may be taken in accordance with the council's Disciplinary Policy if misused.

8.0 Mobile telephone and smartphone usage (including SMS, instant messaging and the like)

- 8.1 Mobile telephones may be used for private purposes during working hours, if kept on silent or vibrating alert. Such use must be reasonable and kept to a minimum, for example in the case of an emergency, and should in no way interfere with the ~~employee~~officer~~officer~~'s work.

9.0 Intellectual property rights, copyright etc

- 9.1 Any inventions, writings or drawings created in the course of an ~~employee~~officer~~officer~~'s normal duties are considered the 'intellectual property' of the council and should not be passed on to another party without the permission of the ~~employee~~officer~~officer~~'s manager.
- 9.2 ~~Employee~~Officer~~Officers~~ must not infringe copyright. Downloading, copying and/or distribution of copyright material including literature, text, music, sound, pictures, software and electronic files is prohibited unless the ~~employee~~officer~~officer~~ has the correct licences or permissions.

10.0 Health and Safety

10.1 The council accepts and will meet any statutory obligations by making, so far as reasonably practicable, every effort to provide a safe and healthy work environment for all ~~Councillor~~Members and officers ~~s~~ and ensure that all steps are taken to protect the health and safety of its service users. The council has agreed a number of policies in relation to Health and Safety to which ~~staff~~officers should refer. These are the:

- (a) Health and Safety Policy;
- (b) Alcohol, Drugs and Substance Misuse Policy;
- (c) Smoke free Workplace Policy; and
- (d) Managing Violence and Aggression in the Workplace Policy.

10.2 All ~~employee~~officer~~officers~~ have a duty of care to themselves and to others to ensure that they undertake their duties safely and responsibly by:

- (a) following the council's Health and Safety policies, procedures and arrangements;
- (b) working in a safe manner so as not to cause harm to themselves or others by their acts or through their omissions;
- (c) reporting all work related accidents in a timely fashion and not assuming that this notification will have been undertaken by another person;
- (d) using all safety clothing and any appropriate equipment provided for their work correctly and reporting any failure or defect of such equipment to their line manager;
- (e) attending any medical examination where required under council ~~p~~Procedures;
- (f) informing their manager if they are taking any medication or are undergoing any medical or physical treatment that may harm their ability to do their job safely; and

(g) complying with hygiene and good housekeeping standards practices.

11.0 Political neutrality

- 11.1 ~~Employee~~Officer~~Officers~~ provide services for all Members and must ensure that Members' individual rights are respected.
- 11.2 Some ~~employee~~officer~~officers~~ may be required to advise political groups and must do so in ways which do not compromise their political neutrality.
- 11.3 ~~Employee~~Officer~~Officers~~ must follow lawful expressed policies of the council and must not allow their own personal or political opinions to interfere with their work.
- 11.4 Any political assistants, appointed in accordance with the Local Government and Housing Act 1989, are exempt from the standards set in 11.1 to 11.3 above.
- 11.5 ~~Employee~~Officer~~Officers~~ holding politically restricted posts are disqualified from membership of any local authority other than a Parish or Community Council and from being an MP or MEP. The council will maintain a list of these posts and advise the postholders concerned.

12.0 Relationships

- 12.1 ~~Members—~~Mutual respect ~~and trust between~~ employee~~officer~~officers and Members is essential. Close personal relationships between employee~~officer~~officers and Members can damage the working relationships within the council and therefore should be avoided where possible.
- 12.2 ~~The Local Community and Service Users—~~Employee~~Officer~~Officers should always remember their

responsibilities to the community and should ensure courteous, efficient and impartial service to all groups and individuals within it.

- 12.3 ~~Contractors~~—All relationships with external contractors, or potential contractors, should be made known to the appropriate manager.

13.0 Employment matters

- 13.1 ~~EmployeeOfficerOfficers~~ involved in appointments should ensure that these are made on the basis of merit and ability of the candidates. ~~EmployeeOfficerOfficers~~ should not be involved in an appointment where they are related to or have a close personal relationship ~~outside work~~ with an applicant.

- 13.2 ~~EmployeeOfficerOfficers~~ should not be involved in disciplinary or grievance procedures, promotion or pay adjustment for any other ~~employeeofficerofficer~~ who is a relative or with ~~whom~~ they have a close personal relationship.

- 13.3 Every candidate for any appointment must disclose in writing if they are related to any member or senior officer of the council. A reference to this disclosure is included in the application form for appointment, which must be completed by anyone applying for a post.

14.0 Outside commitments

- 14.1 The council recognises that ~~employeeofficerofficers~~' off-duty hours are their personal concern but they should not put themselves in a position where their official role and private interests or activities conflict. ~~StaffOfficers~~ should also consider the interests of other authorities that the council has formal shared service arrangements with.
- 14.2 ~~EmployeeOfficerOfficers~~ should not undertake outside work if this would overlap with their official duties or cause a conflict of interest.

Officers require annual written consent to take any outside employment, from their Head of Service~~Director~~.

15.0 **Personal interests**

15.1 Employee~~Officer~~Officers must:

- (a) not allow their private interests to conflict with the interests of the authority~~council~~;
- (b) not use their position to improperly confer an advantage or disadvantage on any person;
- (c) comply with any requirements of the authority~~council~~ to register or declare interests; and
- (d) comply with any requirements of the authority~~council~~ to declare hospitality, benefits or gifts received.

15.2 ~~7.1~~ Employee~~Officer~~Officers must declare to their line manager and to the Head of Legal and Democratic Services any interests, financial or non-financial, which could bring about a conflict with the Council's~~interests~~ of the authority.

15.2

15.3 Once applicable at any time during employment by the council, ~~oEmployee~~~~Officer~~officers must declare to their Head of Service and the Head of Legal and Democratic Services, membership of any organisation or group which:

- (a) is open to the public and requires formal membership and commitment of allegiance and has secrecy about rules and members' conduct; or
- (b) has views which oppose those of the council in a way or to such a degree that this does, or could be seen to, compromise the officer's ability to carry out his or her duties on behalf of the council in an unbiased and impartial way.

15.4 Candidates for a post will not be asked and need not declare their membership of an organisation. ~~However,~~ Candidates for all

posts will be required to sign a declaration on their application form accepting the need to comply with this requirement, if they are subsequently employed by the cCouncil.

- 15.5 For avoidance of doubt, -Freemasonry is an “organisation”- within the meaning of for the purposes of paragraph 15.3.

16.0 Equality and Safeguarding issues

- 16.1 All ~~employee~~officer~~officers~~ must comply with the council's Diversity and Equalities Policy.

- 16.2 East Herts Council is firmly committed to providing and promoting equality for all its ~~employee~~officer~~officers~~ and the wider community. The council's Diversity and Equalities Policy aims to ensure equality influences the way ~~we~~ the council provide services and the employment of staff~~officers~~. To achieve this, ~~we~~ the council will endeavour to create an environment in which there is respect for every individual and recognition that no member of the public, ~~employee~~officer~~officer~~, potential ~~employee~~officer~~officer~~, service user or Member will be discriminated against irrespective of their gender, race, ethnicity, colour, marital status, disability, age, sexuality, family responsibilities, religion, trade union involvement or political beliefs.

16.3 The council firmly believes that:

- (a) children, young people and adults at risk have the right to be safe when using our services; and
- (b) children, young people and adults at risk have a right to be protected from being hurt, mistreated or suffering abuse – in body or mind, regardless of age, race, disability, culture, sex or sexual orientation.

- 16.4 The council is committed to ensuring that the needs and interests of children, young people and adults at risk are considered by Members, officers, volunteers and contractors in the provision of services and decision-making.

16.5 All officers must ensure they are conversant with the council's Safeguarding Policy and Procedure. Failure to do so may lead to disciplinary action.

17.0 Tendering issues

17.1 ~~EmployeeOfficerOfficers~~ involved in tendering and dealing with contractors should be clear on the separation of client and contractor roles within the council. ~~EmployeeOfficerOfficers~~ must follow the procedures and rules incorporated in the council's Financial Regulations, Financial Procedures, and rules/procedures relating to Contracts and procurement requirements. Senior officers who have a client and/or contractor responsibility must be aware of the need for accountability and openness.

17.2 Orders and contracts must be awarded on merit, in accordance with the council's procurement regulations and demonstrating best value has been achieved. Officers must demonstrate impartiality. No part of the community should be discriminated against.

17.3 ~~EmployeeOfficerOfficers~~ in client or contractor units must exercise fairness and impartiality when dealing with customers, suppliers, other contractors and sub-contractors.

17.4 ~~EmployeeOfficerOfficers~~ who have access to confidential information on tenders or costs, for either internal or external contractors, must not disclose that information to any unauthorised party, subject to the Freedom of Information-~~principles~~Regulations.

17.5 Any ~~employeeofficerofficer~~ contemplating a management buy-out should inform ~~their~~-his or her ~~line~~ manager as soon as ~~they~~he or she has formed an intent and withdraw from the contract awarding process.

17.6 ~~EmployeeOfficerOfficers~~ should ensure that no preferential treatment is shown to current or former ~~employeeofficerofficers~~, or their partners, relatives or assistants, in awarding contracts to businesses run by or employing them in a managerial capacity.

18.0 Corruption

- 18.1 ~~Employee Officer~~Officers must be aware that it is a serious criminal offence for them to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour or disfavour to anyone in their official capacity. If an allegation is made, the ~~employee officer~~officer would have to demonstrate that any such rewards have not been obtained corruptly.

19.0 Use of financial resources

- 19.1 ~~Employee Officer~~Officers must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the community and behave in a way that minimises a risk of legal challenge to the ~~authority~~council.
- 19.2 ~~Employee Officer~~Officers must comply with the council's Financial Regulations and Procurement Regulations to safeguard assets and the use of financial resources.
- 19.3 ~~Employee Officer~~Officers should inform their ~~Head of Service~~Director, who will in turn inform the ~~Head of Paid Service,~~ and the ~~appropriate Head of Service~~ Chief Financial ~~Officer~~ of any irregularity or suspected irregularity.
- 19.4 The council has an Anti-Fraud and Anti-Corruption Strategy, Disclosure (Whistleblowing) Code and a Policy on Bribery. All ~~staff officers~~ must familiarise themselves with the contents of these documents.

20.0 Gifts and hospitality

- 20.1 ~~Employee Officer~~Officers should not accept significant personal gifts from contractors or suppliers. Small individual tokens of a value not exceeding ~~£20~~ £25 such as pens, calendars and diaries and the like are acceptable. If there is any doubt, the gift should be politely and tactfully refused. If any significant gift is sent, this should be reported to their ~~Head of Service~~Director, who will advise

if it may be kept or returned. All gifts and offers of gifts should be recorded in the registers of gifts and hospitality, which are held by the Executive Support Team. A copy of the proforma used for registering the acceptance or refusal of gifts and hospitality is available on the Intranet.

20.2 Contract tender documents should prohibit acceptance of gifts.

20.3 EmployeeOfficerOfficers should only accept offers of hospitality if there is a genuine need to impart information or represent the local authority in the community. Offers to attend social, entertainment or sporting functions should be recorded and only be accepted when authorised by their Head of Service/Director and recorded in the register of gifts and hospitality, which is held by the Executive Support Team. In cases of acceptance an estimate of the value together with a reason for acceptance must be recorded.

20.4 When gifts or hospitality have to be declined, those making the offer should be courteously informed of the standards operating within the council.

20.5 Acceptance by employeeofficerofficers of hospitality at conferences and courses is acceptable where it is clear that the hospitality is corporate rather than personal and where the visit has been authorised. Any such hospitality should be recorded. Where visits to inspect equipment or other items are required, employeeofficerofficers should ensure the council meets the cost of the visit to avoid jeopardising the integrity of any purchasing decision.

20.6 EmployeeOfficerOfficers must not seek or accept discounts or other preferential rates on private purchases of goods or services based on the fact that they are a council employeeofficerofficer. Discounts offered by organisations that have been formally agreed and accepted as part of the council's employeeofficerofficer benefits package are not prohibited. A full list of employeeofficerofficer benefits is available on the Intranet.

21.0 Sponsorship – Giving and Receiving

- 21.1 When an outside organisation wishes to sponsor a council event, the basic conventions concerning acceptance of gifts and hospitality apply. Acceptance of any support must come about through a transparent decision making process and the support accepted must be recorded.
- 21.2 Where the council wishes to sponsor an event or service, no employeeofficerofficer, partner or relative must benefit from the sponsorship in a direct way without there being a full disclosure to the appropriate Head of ServiceDirector of any such interest.
- 21.3 When the council gives support in the community, through sponsorship, grant aid or other means, employeeofficerofficers should ensure that impartial advice is given and there is no conflict of interest involved.

22.0 Standards of dress

- 22.1 The council considers the way employeeofficerofficers dress and their appearance to be of significant importance in portraying a professional image to all users of its services whether CouncillorMembers, visitors, residents of the district or colleagues.
- 22.2 All employeeofficerofficers are individually responsible for their general presentation, appearance and personal hygiene, and have a responsibility to consider how others may perceive their appearance.
- 22.3 EmployeeOfficerOfficers are expected to dress appropriately for the duties of their post and are encouraged to adopt a common sense approach with regard to the clothing and jewellery that they wear to work. All external business meetings and contact with the public will require business dress, while more casual approach is permissible for staffofficers working in the back office environment.

23.0 Policy review and amendment

- 23.1 This policy shall be reviewed after two years or sooner in line with legislation and best practice to reflect the best possible level of support and management.

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MEMBER/OFFICER PROTOCOL

1.0 Introduction

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another.
- 1.2 The primary responsibility for Members is to set policy as a Member of Council. Officers are responsible for implementing those policies.
- 1.3 Given the variety and complexity of such relations, the Protocol does not seek to be prescriptive and it may not cover all situations. However, it does seek to provide guidance on some of the issues that most commonly arise. The approach to these issues will serve as a guide to dealing with other issues. The protocol seeks to supplement and help to interpret but not to supplant the statutory provisions, members' Code of Conduct and other guidance, the provisions elsewhere in the Constitution, and the disciplinary code which applies to officers.
- 1.4 ~~The Protocol is a written statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty.~~
- 1.5 ~~It~~ The Protocol also seeks to reflect the principles underlying the respective rules of conduct that apply to Members and Officers. Its purpose, therefore, is to enhance and maintain the integrity (real and perceived) of local government by seeking high standards of personal conduct.
- 1.56 Members and Officers depend on each other in carrying out the work of the Authority.— CouncillorMembers are responsible to the electorate of East Herts and serve as long as their term of office lasts. All CouncillorMembers have responsibilities, as set out in the descriptions of their role; some CouncillorMembers have additional responsibilities, such as Chairman, Leader, CabinetExecutive Members and Committee Chairman. However, all members have the same responsibilities and obligations in their relationships with

officers and must be treated equally. Officers are responsible to the Council. Officers are responsible for giving full and impartial advice to the Council, as well as to individual Members, and to carry out the Council's work under the direction and control of the Council and its various bodies.

1.67 Mutual respect between Members and Officers is essential to good local government. However, close personal familiarity between individual Members and Officers can damage this relationship and prove embarrassing to other Members and Officers.

1.78 The relationship has to function without compromising the ultimate responsibilities of Officers to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that Officers can legitimately provide to Members. The Protocol seeks to set a framework that assists the working relationships between Members and Officers.

2.0 Roles of Members

2.1 Members undertake many different roles. Broadly these are:

- (a) Members express political values and support the policies of the party or group to which they belong (if any).
- (b) Members represent their wards and are advocates for the constituents who live in the area.
- (c) Members are involved in active partnerships with other organisations as community leaders.
- (d) Members contribute to the decisions taken in full Council and in its various bodies on which they serve, as well as joint committees, outside bodies and partnership organisations.
- (e) Members help develop and review policy and strategy.

(f) Members monitor and review policy implementation and service quality.

(g) Members are involved in quasi-judicial work through their membership of regulatory committees.

3.0 Roles of Officers

3.1 Briefly, Officers have the following main roles:

(a) Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services.

(b) Providing advice to the Council and its various bodies and to individual Members in respect of the services provided.

(c) Initiating policy proposals.

(d) Implementing agreed policy.

(e) Ensuring that the Council always acts in a lawful manner.

4.0 Respect and Courtesy

4.1 For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Officers. This plays an important part in the Council's reputation and how it is seen in public. It is important that both Members and Officers remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of other Members, or other Officers, in public places.

4.2 Members should avoid making personal attacks on Officers and, in particular, avoid undermining respect for Officers in Council and Committee meetings or public forums. If a member is dissatisfied with the conduct of an officer, they should refer the matter to the relevant Head of Service who

will carry out an investigation using the Council's agreed procedure. If a complaint relates to a Chief Officer or the Statutory Officers the matter should be referred to the Chief Executive. If a complaint relates to the Chief Executive the matter should be referred to the Leader of the Council.

5.0 Undue Pressure

- 5.1 It is important in any dealings between Members and Officers that neither should seek to take unfair advantage of their position.
- 5.2 In their dealings with Officers (especially junior Officers) Members need to be aware that it is easy for them to feel at a disadvantage.
- 5.3 A Member should not apply undue pressure on an [Employee Officer](#) either to do anything that he is not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.
- 5.4 Similarly, an [Employee Officer](#) must neither seek to use undue influence on an individual Member to make a decision in his/her favour, nor raise personal matters to do with their job, nor make claims or allegations about other Officers. (The Council has formal procedures for consultation, grievance and discipline, and Officers have the right to report possible wrongdoing under the Council's ~~confidential~~ [Whistleblowing Policy](#)).

6.0 Familiarity

- 6.1 Close personal familiarity between individual Members and Officers can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.
- 6.2 Such familiarity could also cause embarrassment to other Members and/or other Officers and even give rise to suspicions of favouritism.

6.3 Members should be aware of the need for a professional relationship with officers.

6.4 Any familial relations between a member and an officer must be declared to the Monitoring Officer as soon as it is known about. If the officer is about to be appointed, following a recruitment process, the Monitoring Officer must confirm in writing that the appointment is still acceptable.

7.0 Breach of Protocol

7.1 If a Member considers that he has not been treated with proper respect or courtesy he may raise the issue with the [EmployeeOfficer](#)'s line manager. If direct discussion with the [line](#) manager does not resolve the complaint it should be referred to the Head of Service responsible for the [employeeOfficer](#) concerned. Breach of the Protocol may give rise to disciplinary proceedings against an [EmployeeOfficer](#) if the circumstances warrant it.

7.2 If an [employeeOfficer](#) considers that a Member has contravened the protocol s/he should consult his/her line manager who will if necessary involve the Head of Service. In certain circumstances breach of the Protocol may also constitute a breach of the Members' Code of Conduct. If the breach is sufficiently serious this may warrant a formal reference to the Monitoring Officer as a complaint to be considered for potential investigation by the Standards Committee. Many complaints will be capable of informal resolution. The Monitoring Officer or the Chief Executive will assist in this process if necessary.

8.0 Provision of Advice and Information to Members

8.1 Members are free to approach Officers of the Council to provide them with such information and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.

- 8.2 Officers should always endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any appreciable delay in dealing with an enquiry. As a minimum the timescale for responding to correspondence should be observed i.e. either a full response or, if this is not possible, an acknowledgement that fully explains what is happening within 5 working days of the receipt of the enquiry.
- 8.3 The legal rights of Members to inspect Council documents are covered partly by statute and partly by common law.
- 8.4 The Access to Information Procedure Rules in the Constitution explain the position with regard to access to papers relating to the business of a Council body.
- 8.5 The exercise of the common law right depends upon a Member's ability to demonstrate a "need to know". In this respect a Member has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient.
- 8.6 Members may be entitled under the Freedom of Information Act 2000 to receive information which falls outside their common law rights based on the "need to know". Officers are encouraged to supply documents to Members without the need for a formal FOI request if it is apparent from the Member's enquiry that any individual would be entitled to receive such documentation. The Council's [Information Manager/Monitoring Officer](#) will be able to advise ~~in consultation if necessary with the Monitoring Officer~~ on whether any request would fall within the Freedom of Information Act [2000](#).
- 8.7 The information sought by a Member should only be provided by the respective Service as long as it is within the limits of the Service's resources. For their part, Members should seek to act reasonably in the number and content of the requests they make.
- 8.8 It is important for Services and their staff to keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the

areas that they represent. Local Members should be informed about proposals that affect their wards and should also be invited to attend Council initiated events within their wards.

- 8.9 If a Member asks for specific information relating to the work of a particular Service, and it appears possible or likely that at a subsequent meeting an issue could be raised or question asked on the basis of the information provided, then the appropriate Executive Member or Committee Chairman concerned should be advised about the information provided.
- 8.10 Officers have to advise Members from time to time that a certain course of action cannot be carried out. Members sometimes assume that this is a case of Officers deliberately obstructing the wishes of politicians. Officers are employed to give unbiased professional advice even if it is not what Members want to hear. They do this as much for the protection of Members as for any other reason. However, the mark of an effective Officer is that if they do have to give negative advice, this will be accompanied by suggestions as to how Members might achieve some or all of their objectives in other ways. Such Officers are invaluable to any Council.

8.11 Reports

It is the responsibility of officers to ensure that their reports contain clear and evidence based advice upon the course of action which is recommended and the reasoning behind that. The report should lay out the relevant factors and examine the alternatives in an even handed way, even those options which may be unpopular.

If there are disagreements, all options should be available for discussion. Pressure should not be brought to bear upon Officers in an attempt to make them change their professional opinion.

Members can refuse officer recommendations and make their own amendments. Where an alternative is suggested the reasoning should be provided by the member with a clear and rational basis, and available to the public. For Executive

reports, the Officer should always consult clearly with the Executive member in whose name the report is written.

In relation to action between meetings, it is important to remember that, whilst the Executive have delegated powers for executive functions, the law only allows for decisions which relate to the discharge of any of the Council's functions to be taken by a Committee, a Sub-Committee or an Officer. The law does not allow for such decisions to be taken by a Chairman or indeed by any other single Member

Finally, it must be remembered that Officers within a service are accountable to their Chief Officer and that whilst Officers should always seek to assist the Leader, a Portfolio Holder, Chairman (or indeed any Member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Chief Officer.

9.0 Operation of the Overview and Scrutiny Committee

The Overview and Scrutiny Committee may require Officers and Members to attend and provide any information required to answer questions (other than those which he or she would be entitled to refuse to answer in a court of law). The Council may consider that this requirement should only apply to Chief Officers, Heads of Service, Service Managers and not to more junior staff (except with their agreement).

Members of the Overview and Scrutiny Committee must treat officers and independent witnesses appearing before them with respect and should explain the role and operation of the Committee, particularly in relation to future policy development, before asking questions of witnesses. Members should adopt an inquisitorial approach to questioning and may be firm and assertive, but should never be adversarial, rude or aggressive.

If officers are called to attend the O&S Committee they should provide all relevant information they possess and should never seek to withhold any matters from the O&S.

109.0 Confidentiality

910.1 Members should be aware of their data protection responsibility. The Council may disclose personal information to a Member which should only be used for the purposes of carrying out their duties.

910.2 Members must not disclose information given to him/her in confidence by anyone, or information acquired which he/she believes, or ought reasonably to be aware, is of a confidential nature, except where:

- he/she has the consent of a person authorised to give it;
- he/she is required by law to do so;
- the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- the disclosure is:
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the authority.

910.3 Confidential Committee papers (pink papers) are to be treated as confidential information unless the relevant Committee resolves not to exclude press and public. Members are reminded that the author of the report makes the initial decision as to whether or not the papers are to be treated as confidential. The decision as to whether they remain confidential is for the Committee. Other information may be confidential because to disclose it would be against the Council's or the public interest. Information may also be confidential because of the circumstances in which it was obtained.

910.4 Information and correspondence about an individual's private or business affairs will normally be confidential.

- 910.5** Officers should make it clear to Members if they are giving them confidential information. If a Member is not sure whether information is confidential, he or she should ask the relevant Officer, but treat the information as confidential in the meantime.
- 910.6** Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council.
- 910.7** If a Member receives confidential information and considers it should be disclosed to another person because it is reasonable and in the public interest to do so then he or she must first consult with the Monitoring Officer and shall not disclose the information without having regard to any advice given by that officer.

11.0 Safeguarding

11.1 Members and officers ~~should~~ must be cognisant of the councils ~~saf~~eeguarding policy ~~in a~~ their dealings with each other ~~and~~ at all times and seek advice from the Council's Lead Safeguarding Officer.

~~10.12.0~~ Involvement of Ward ~~Councillor~~Members

Ward ~~Councillor~~Members should be kept informed and consulted on relevant matters affecting their ward, i.e. on Planning, Licensing and other relevant matters. In the case of public meetings in a particular locality, the Ward ~~Councillor~~Member will normally be invited to attend and could normally be expected to be consulted on any form or consultative exercise on local issues.

So far as decision making is concerned, however, Members remain accountable to the whole electorate of the District and must make a personal decision on matters which come before them, balancing the interests of the electorate as a whole, including those members of the public who did not vote for them.

103.0 Provision of Support Services to Members

103.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, word processing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

144.0 Correspondence

144.1 Official letters on behalf of the Council should be sent in the name of the appropriate [Employee Officer](#), rather than ~~over~~ ~~the~~ ~~in~~ ~~the~~ name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to that Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

144.2 [When acting in an official capacity](#) Members shall only use the Council email address provided for that Member when acting in an official capacity as a Member. The use of personal e-mail addresses ~~for~~ those of other authorities (for example town/county) is strictly prohibited as it exposes the council to significant risks under the General Data Protection Regulation (Regulation (EU) 2016/679)

125.0 Media

125.1 Communication with the media can be an important part of a Member's workload. In general, Members provide comment and views while Officers provide factual information. If a Member is unsure about the circumstances of a particular issue ~~the~~ ~~y~~ should contact the appropriate Head of Service concerned or ask the ~~Press Office~~ Communications Team to do so.

125.2 Members are reminded of the need to comply with the requirements of the Local Government Act 1986 (as amended) and the Code of Recommended Practice on Local Authority Publicity which prohibit Councils from publishing

any material which appears to be designed to affect public support for a political party. Publicity should not be used as a means to publicise individual CouncillorMembers, except where they are acting to represent the Council as a whole. Members should not allow members of the public to communicate with you during any formal meeting of the Council its Committee or sub-committee (orally or in writing) other than through the scheme for public speaking, as they may give the appearance of bias.

~~12.3 Members should ensure that you comply with the Council's procedures in respect of public speaking.~~

16xx.0 Ceremonial Events

16xx.1 Ceremonial events would normally be led by the Chairman or the Vice-Chairman of the Council. Leaders of the political groups and local Members should be informed and, where possible and appropriate, invited to participate.

173.0 The Council's Role as Employer

173.1 In their dealings with Officers, Members should recognise and have regard to the Council's role as employer. Members should be aware that Officers could rely on inappropriate behaviour of a Member in an employment case against the Council.

184.0 Political Activity

184.1 There are a number of constraints that apply to an employeeOfficer who occupies a post that is designated as "politically restricted" under the terms of the Local Government and Housing Act 1989.

148.2 In summary, such Officers are prevented from:

- (a) being a Member of Parliament, European Parliament or local authority;
- (b) acting as an election agent or sub-agent for a candidate for election as a member of any the bodies referred to in (a1);

(c) being an officer of a political party or any branch of a political party or a member of any committee or sub-committee of such a party or branch, if his/her duties would be likely to require him/her to:

(i) participate in the general management of the party or branch; or

(ii) act on behalf of the party or branch in dealings with persons other than members of the party;

(d) canvassing on behalf of a political party or a candidate for election to any the bodies referred to in (1);

(e) speaking to the public with the apparent intent of affecting public support for a political party; and

(f) publishing any written or artistic work of which he is the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection - if the work appears to be intended to affect public support for a political party.

18.3 It is common for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups provided they maintain a stance which is politically impartial. Support may include a range of activities including briefings for Members relating to their roles e.g. Chairman. Officers should be required to give information and advice to political groups on Council business only and not on matters which are purely of a party political nature. Such advice should be available to all party groups and not solely to the majority group. It is important that the political neutrality of Officers is preserved and that group confidentiality is maintained by Officers.

- 148.4 Usually the only Officers involved in attending group meetings will be the Chief Executive, Directors and Heads of Service and they will generally leave the meeting after making their presentation and answering questions.
- 148.5 Officers are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Heads of Service, and not to individual Members of the Council whatever office they might hold.
- 148.6 Both Members and Officers are subject to their own Codes of Conduct which can be found in the Constitution. This Protocol provides guidance on working relationships between Members and Officers. It is essential that both are familiar with the detailed obligations in their respective Codes of Conduct which will prevail in the event of any conflict between the Codes and this Protocol.

159.0 Sanctions

- 159.1 Complaints about any breach of this Protocol by a Member may be referred to the Monitoring Officer. It should be noted that certain breaches may also amount to breaches of the Code of Conduct for Members.
- 159.2 Complaints about any breach of this protocol by an Officer may be referred to the Chief Executive or the relevant Head of Service.

~~1620.0 Conclusion~~

- ~~1620.1 Following good practice and securing sensible and practical working relationships between Members and Officers will provide one of the cornerstones of a successful local authority and thereby enhance the delivery of high value quality services to the people of the area. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and Officers.~~

HEAD OF PAID SERVICE PROTOCOL

1.0 General introduction to statutory responsibilities

1.1 The Head of Paid Service is a statutory appointment pursuant to section 4 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged in [East Hertfordshire District](#) Council.

1.2 The Head of Paid Service should undertake to discharge these statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council.

1.3 A summary list of the statutory responsibilities appears in the table annexed to this document. ~~In general terms, the Head of Paid Service's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:~~

- ~~(a) — addressing the staffing needs of the authority;~~
- ~~(b) — meeting the staffing needs of the Council;~~
- ~~(c) — the appointment and proper management of the staff.~~

2.0 Working arrangements

2.1 Having excellent working relations with Members and Officers will assist in the discharge of the statutory responsibilities of the Head of Paid Service. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and Officers should, therefore, work with the Head of Paid Service to discharge the Council's statutory and discretionary responsibilities.

2.2 The following arrangements and understandings between the Head of Paid Service, [Chief Officers](#) and Members ~~and Directors~~ are designed to ensure the effective discharge of the Council's business and functions. The Head of Paid Service will:

- (a) Be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including the manner in which the discharge by the Council of its different functions is co-ordinated, the number and grades of officersstaff required for the discharge of its functions, the organisation of the Council's staffofficers and the appointment and proper management of the Council's officersstaff;
- (b) Have advance notice (including receiving Agendas, Minutes, Reports and related papers) of all relevant meetings of the Council at which a decision may be made (including a failure to take a decision where one should have been taken) at or before the Council, Executive, Committee meetings and Sub-Committee meetings (or equivalent arrangements);
- (c) Have the right to attend any meeting of the Council (including the right to be heard and report to the Executive) before any decision is taken (including a failure to take a decision where one should have been taken) at or before the Council, Executive, Committee meetings and Sub-Committee meetings (or equivalent arrangements);
- (d) In carrying out any investigation(s) and exercising any duties have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of the functions;
- (e) Ensure the other statutory officers (Chief Financial Officer and the Monitoring Officer) are kept up-to-date with relevant information regarding the manner in which the Council discharges its various functions, the corporate approach of the Council, the staffing needs of the Council, the organisation of the staff and the appointment and proper management of the staff;
- (f) Meet regularly with the Chief Financial Officer and the Monitoring Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern described in e) above;

- (g) Report to the Council, from time to time, on the corporate approach of the Council and any necessary or desirable changes following consultation, in particular, with the Chief Financial Officer and Monitoring Officer;
- (h) As per the statutory requirements, make a report to the Council, as necessary on the staff, accommodation and resources required to discharge his/her statutory functions;
- (i) Have a [special-direct](#) relationship of respect and trust with the Leader, Deputy Leader and the Chairmen of the [Audit and Governance](#), Regulatory and Scrutiny Committees with a view to ensuring the effective and efficient discharge of Council business;
- (j) Develop effective working liaison and relationship with the External Auditor (including having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary);
- (k) In consultation, as necessary, with the Chairman of the Council, the Executive and the External Auditor, defer the making of a formal report under Section 4 of the Local Government and Housing Act 1989 where another investigative body is involved;
- (l) Have sufficient resources to address any matters concerning his/her Head of Paid Service functions
- (m) To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other legal or constitutional concerns to the Head of Paid Service, as soon as practicable.

2.4 The Head of Paid Service is also available for Members and Officers to consult on any issues of the corporate approach of the Council, staffing needs, appointment and management of [staffofficers](#).

2.5 To ensure the effective and efficient discharge of this [Protocol](#), the Head of Paid Service will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Head of Paid Service role.

2.6 The Head of Paid Service will record details of any advice given.

SUMMARY OF HEAD OF PAID SERVICE FUNCTIONS

	Description	Source
1	Report on decisions incurring unlawful expenditure, unlawful loss or deficiency or unlawful item of account.	Section 4 Local Government and Housing Act 1989
2	Report on resources.	Section 4 Local Government and Housing Act 1988.
3.	All staff to be appointed on merit.	Section 7 Local Government and Housing Act 1989
4.	Duty to adopt Standing Orders with respect to staff.	Section 8 Local Government and Housing Act 1989
5.	Confidentiality of staff records.	Section 11 Local Government and Housing Act 1989
6.	Conflicts of interest in staff negotiations	Section 12 Local Government and Housing Act 1989
7.	Appointment of staff	Section 112 Local Government Act 1972

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CHIEF FINANCIAL OFFICER (SECTION 151 OFFICER) PROTOCOL

1.0 GENERAL INTRODUCTION TO STATUTORY RESPONSIBILITIES

1.1 The Chief Financial Officer is a statutory appointment pursuant to section 151 of the Local Government Act 1972. This ~~p~~Protocol provides some general information on how those statutory requirements will be discharged in ~~the East Hertfordshire District~~ Council.

1.2 The Chief Financial Officer should undertake to discharge these statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council. In doing so, the Chief Financial Officer will also safeguard, so far as is possible, Members and Officers, whilst acting in their official capacities, from financial difficulties.

1.3 A summary list of the statutory responsibilities appears in the table annexed to this document. ~~In general terms, the Chief Financial Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:~~

- (a) complying with the Council's financial procedures;
- (b) making lawful payments;
- (c) not taking action that would result in unlawful payments or unlawful action.

WORKING ARRANGEMENTS

~~According to the Chartered Institute of Public Finance and Accountancy (CIPFA) there are five key roles that are critical to the achievement of a Chief Financial Officer's statutory responsibilities:~~

~~maintaining strong financial management underpinned by effective financial controls~~

contributing to corporate management and leadership
supporting and advising democratically elected representatives
supporting and advising officers in their operational roles
leading and managing an effective and responsive financial
service.

The key activities for each of these roles are set out in Annex 2.

Having excellent working relations with Members and Officers will assist in the discharge of the statutory responsibilities of the Chief Financial Officer. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and Officers should, therefore, work with the Chief Financial Officer to discharge the Council's statutory and discretionary responsibilities.

The following arrangements and understandings between the Chief Financial Officer, Members, Chief Executive and Directors are designed to ensure the effective discharge of the Council's business and functions. The Chief Financial Officer will:

- be alerted by Members and officers to any issue(s) that may become of concern to the Council, including, in particular issues around financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit;

- have advance notice (including receiving Agendas, Minutes, Reports and related papers) of all relevant meetings of the Council at which a decision may be made (including a failure to take a decision where one should have been taken) at or before the Council, Executive, Committee meetings and Sub-Committee meetings (or equivalent arrangements);

- have the right to attend any meeting of the Council (including the right to be heard and report to the Executive) before any decision is taken (including a failure to take a decision where one should have been taken) at or before the Council, Executive, Committee meetings and Sub-Committee meetings (or equivalent arrangements);

~~in carrying out any investigation(s) and exercising any fiduciary duties have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of his functions;~~

~~ensure the other statutory officers (Head of Paid Service and the Monitoring Officer) are kept up to date with relevant information regarding any financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit;~~

~~meet regularly with the Head of Paid Service and the Monitoring Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit;~~

~~report to the Council, from time to time, on the Financial Regulations and any necessary or desirable changes following consultation, in particular, with the Head of Paid Service and Monitoring Officer;~~

~~as per the statutory requirements, make a report to the Council, as necessary on the staff, accommodation and resources required to discharge his statutory functions;~~

~~have a special relationship of respect and trust with the Leader, Deputy Leader and the Chairmen of the Standards, Regulatory and Scrutiny Committees with a view to ensuring the effective and efficient discharge of Council business;~~

~~develop effective working liaison and relationship with the External Auditor (including having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary);~~

~~in consultation, as necessary, with the Chairman of the Council, the Executive and the External Auditor, defer the making of a formal report under Section 114, 114A, 115 and 116 of~~

~~the Local Government and Finance Act 1988 where another investigative body is involved;~~

~~have sufficient resources to address any matters concerning his Chief Financial Officer functions; and~~

~~nominate a suitably qualified deputy and keep the deputy briefed on any relevant issues that the deputy may be required to deal with in the absence of the Chief Financial Officer. Appoint an appropriate external adviser in cases where the Chief Financial Officer is precluded from offering advice and the deputy is unable to advise.~~

~~To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other legal or constitutional concerns to the Chief Financial Officer, as soon as practicable.~~

~~The Chief Financial Officer is also available for Members and Officers to consult on any issues of the Council's financial powers, possible unlawful payments, or general advice on the financial arrangements.~~

~~To ensure the effective and efficient discharge of this Protocol, the Chief Financial Officer will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Chief Financial Officer role.~~

~~The Chief Financial Officer or deputy will record details of any advice given.~~

Functions of the Chief Financial Officer

Ensuring lawfulness and financial prudence of decision-making -
After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the full Council, or the Cabinet/Executive in relation to an executive function, and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful

and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

Administration of financial affairs - The Chief Financial Officer will have responsibility for the administration of the financial affairs of the Council.

Contributing to corporate management - The Chief Financial Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

Providing advice - The Chief Financial Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all ~~Councillor~~Members and will support and advise ~~Councillor~~Members and officers in their respective roles.

Give financial information - The Chief Financial Officer will ensure that financial information about the Council is provided to the media, members of the public and the community.

ANNEX 1

SUMMARY OF CHIEF FINANCIAL OFFICER FUNCTIONS

	Description	Source
1	Report on decisions incurring unlawful expenditure, unlawful loss or deficiency or unlawful item of account.	Section 114, 114a, 115, 116 Local Government and Finance Act 1988
2	Appointment of Deputy.	Section 114 Local Government and Finance Act 1988.
3	Report on resources.	Section 114 Local Government and Finance Act 1988.
4	Responsibility for the administration of financial affairs.	Section 151 Local Government Act 1972
5	Borrowing, investment accounts and financial administration.	Local Government Act 2003 Sections 1-92
6	Responsibility to determine the form of the Council's accounts and records, provide internal audit and statement of accounts.	The Accounts and Audit Regulations 2003 Local Authorities (Capital Finance and Accounting) (England) Regulations 2003

KEY ROLES OF THE CHIEF FINANCIAL OFFICER

1.0 Maintaining strong financial management underpinned by effective financial controls

- 1.1 Advising on corporate risk profiling and management, including safeguarding assets, risk avoidance and insurance.
- 1.2 Advising on effective systems of internal control.
- 1.3 Ensuring there is an effective system of internal financial control.
- 1.4 Ensuring that financial management arrangements are sound and effective.
- 1.5 Ensuring a prudential financial framework is in place.
- 1.6 Ensuring that any partnership arrangements (or other innovative structures for service delivery) are underpinned by clear and well documented internal financial controls.
- 1.7 Securing effective arrangements for prudential borrowing, treasury management, pensions and trust funds.
- 1.8 Ensuring there is an effective internal audit function and assisting management in providing effective arrangements for financial scrutiny.
- 1.9 Advising on anti-fraud and anti-corruption strategies and measures.
- 1.10 Securing effective systems of financial administration.
- 1.11 Ensuring that statutory and other accounts and associated claims and returns in respect of grant are prepared.
- 1.12 Contributing to the management of the [authorityCouncil](#).
- 1.13 Ensuring that the [authority's Council's](#) financial resources are well managed.
- 1.14 Contributing to cross-[authority council](#) issues and to the development of the [Councilauthority](#).

2.0 Contributing to corporate management and leadership

- 2.1 Contributing to the effective leadership of the ~~authority~~Council.

3.0 Supporting and advising democratically elected representatives

- 3.1 Advising on protocols setting out the respective roles and responsibilities of ~~Councillor~~Members and officers for financial management.
- 3.2 Providing advice to ~~Councillor~~Members on developing an overall financial strategy that serves policy and service objectives.
- 3.3 Helping ~~Councillor~~Members to identify priorities, prepare the annual funding plan/budget and identify how resources will be used.
- 3.4 Helping ~~Councillor~~Members to monitor financial performance against the annual funding plan/budget.
- 3.5 Ensuring that all 'branches' of the ~~authority~~Council (including the full Council, Executive and Scrutiny functions where such arrangements exist, administration and opposition groups and individual ~~Councillor~~Members) receive advice and information.

4.0 Supporting and advising officers in their operational roles

- 4.1 Ensuring that there is an effective approach to financial management.
- 4.2 Ensuring that financial strategies serve policy and service objectives.
- 4.3 Ensuring that the ~~Council~~authority's resources are well managed.
- 4.4 Ensuring that budgets are properly managed.
- 4.5 Ensuring that financial advice and information is provided.
- 4.6 Advising on performance management and measurement.

5.0 Leading and managing an effective and responsive financial service

- 5.1 Securing high standards of performance and service to the public.
- 5.2 Demonstrating accountability to members of the public and the community by providing robust financial and performance information.

- 5.3 Establishing a good, professional working relationship with external auditors, inspectors and other statutory agencies.
- 5.4 Ensuring that the services provided by the finance function are in line with the expectations and needs of its internal stakeholders.
- 5.5 Ensuring there are high standards of performance throughout the finance function.
- 5.6 Leading and managing the finance function.
- 5.7 Acting as head of profession for all finance staff in the [authorityCouncil](#).

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MONITORING OFFICER PROTOCOL

1.0 General introduction to statutory responsibilities

- 1.1 **___** The Monitoring Officer is a statutory appointment pursuant to section 5 of the Local Government and Housing Act 1989. This ~~P~~protocol provides some general information on how those statutory requirements will be discharged in ~~East Hertfordshire District~~the Council.
- 1.2 **___** The Monitoring Officer ~~should~~ undertake to discharge these statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council. In doing so, the Monitoring Officer will also safeguard, so far as is possible, Members and Officers, whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.
- 1.3 **___** A summary list of the statutory responsibilities appears in the table annexed to this document. ~~In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:~~

~~complying with the law (including any relevant Codes of Conduct and Protocols);~~
~~complying with any general guidance issued, from time to time, by the Audit and Governance and the Monitoring Officer;~~
~~making lawful and proportionate decisions; and~~
~~generally, not taking action that would bring the Council, their post or professions into disrepute.~~

2.0 Working arrangements

- 2.1 **___** Having excellent working relations with Members and Officers will assist in the discharge of the statutory responsibilities of the Monitoring Officer. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and Officers should, therefore, work with the

Monitoring Officer to discharge the Council's statutory and discretionary responsibilities.

2.2 The following arrangements and understandings between the Monitoring Officer, Members, the Chief Executive and Directors are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:

- (a) be alerted by Members and officers to any issue(s) that may become of concern to the Council, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (b) have advance notice (including receiving Agendas, Minutes, Reports and related papers) of all relevant meetings of the Council at which a decision may be made (including a failure to take a decision where one should have been taken) at or before the Council, Executive, Committee meetings and Sub-Committee meetings (or equivalent arrangements);
- (c) have the right to attend any meeting of the Council (including the right to be heard) before any Decision is taken (including a failure to take a decision where one should have been taken) at or before the Council, Executive, Committee meetings and Sub-Committee meetings (or equivalent arrangements);
- (d) in carrying out any investigation(s) have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of any functions;
- (e) ensure the other statutory officers (Head of Paid Service and the Chief Financial Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (f) meet regularly with the Head of Paid Service and the Chief Financial Officer to consider and recommend action in connection with Corporate Governance issues and other

matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;

- (g) report to the Council, from time to time, on the Constitution and any necessary or desirable changes following consultation, in particular, with the Head of Paid Service and Chief Financial Officer;
- (h) ~~as per the statutory requirements~~, make a report to the Council, as necessary on the staff, accommodation and resources required to discharge his/her statutory functions;
- (i) have a ~~special-direct~~ relationship of respect and trust with the Leader, Deputy Leader and the Chairmen of the ~~Audit and Governance~~, Regulatory and Scrutiny Committees with a view to ensuring the effective and efficient discharge of Council business;
- (j) develop an effective working liaison and relationship with the External Auditor and the Local Government Ombudsman (including having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary and settle any compensation payments for alleged or actual maladministration found against the Council);
- (k) maintain and keep up-to-date relevant statutory registers for the declaration of Members' interest, gifts and hospitality;
- (l) give ~~informal~~ advice to Members and officers of the Council and undertake relevant enquiries into allegations of breaches of the Members' Code of Conduct, including such allegations against Town and Parish Councillors
- (m) in consultation, as necessary, with the Chairman of the Council, the Executive and the Performance, Audit and Governance Scrutiny Committee, defer the making of a formal report under Section 5 of the Local Government and

Housing Act 1989 where another investigative body is involved;

- (n) make arrangements to ensure effective communication with the Town and Parish Councils within the District on Monitoring Officer and [Performance](#), Audit and Governance [Scrutiny](#) Committee issues;
- (o) have sufficient resources to address any matters concerning his Monitoring Officer functions;
- (p) subject to the approval of the [Performance](#), Audit and Governance [Scrutiny Committee](#), be responsible for preparing any training programme for Members on ethical standards and Code of Conduct issues; and
- (q) appoint a deputy and keep the deputy briefed on any relevant issues that the deputy may be required to deal with in the absence of the Monitoring Officer. Appoint an appropriate external adviser in cases where the Monitoring Officer is precluded from offering advice and the Deputy is unable to advise.

2.3 ____ To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other legal or constitutional concerns to the Monitoring Officer, as soon as practicable.

2.4 ____ The Monitoring Officer is also available for Members and Officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g. Standing Orders, policy framework, terms of reference, scheme of delegations etc).

2.5 ____ To ensure the effective and efficient discharge of this Protocol, the Chief Financial Officer will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.

2.6 ____ The Monitoring Officer or the Deputy Monitoring Officer will record details of any advice given.

SUMMARY OF MONITORING OFFICER FUNCTIONS

	Description	Source
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 Local Government and Housing Act 1989
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 Local Government and Housing Act 1989.
3	Appointment of Deputy.	Section 5 Local Government and Housing Act 1989.
4	Report on resources.	Section 5 Local Government and Housing Act 1989.
5	Receive copies of whistleblowing allegations of misconduct.	Code of Conduct
6	Establish and maintain registers of Members' interests and gifts and hospitality.	Section 29 Localism Act 2011
7	Compensation for maladministration.	Section 92 LGA 2000.
8	Advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Members.	Government guidance.
9	Maintain a log of member training	local requirement

MEDIA PROTOCOL

1.0 Introduction

- 1.1 Communication between the Council and the public is vital for access to services and for local democracy.
- 1.2 Because we recognise the importance of the media to effective public communications, we have produced this protocol which sets out:
 - (a) the professional support offered by the Communications Team
 - (b) the roles of Members and officers in media relations
 - (c) the legal framework for publicity
 - (d) a formal account of media relations practice at East Herts.
- 1.3 It is designed to help everyone in the Council to work more effectively together and with our contacts in the local or national media.

2.0 The Role of the Communications Team

- 2.1 The purpose of the Communications Team is to increase public awareness of the Council's services and functions, to explain to the public and stakeholders what the policies and priorities are and to support the organisation in gathering public views on services, policies and priorities.
- 2.2 It fulfils this role through the production of [content via the following printed media and digital media channels](#):
 - (a) press releases [and responses to press enquiries](#)
~~, responding to press enquiries~~
 - (b) ~~, press briefings~~
 - (c) ~~, production of~~ Link magazine, ~~and t~~
 - (d) the hosting of conferences and media events
 - (e) [electronic newsletters](#)

(f) [council website](#)

(g) [council social media accounts \(including facebook, -twitter, Instagram and youtube\)](#)

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- 2.3 The Communications Team provides officers and Members with support on any communications matter that relates to the reputation of the Council as a whole, its policies and its services.

3.0 Who speaks for East Herts Council to the Media?

- 3.1 As democratically elected and publicly accountable representatives, the Members of East Herts are the primary spokesmen for the Authority with the media. Only [Members Councillors](#) who hold particular positions should be individually identified in publicity.

- 3.2 These should be taken as:

- Leader and other Committee Chairmen
- Chairman and Vice Chairman (in their ceremonial roles)
- [Portfolio Executive Members holders](#)
[Scrutiny Chairmen](#)

- 3.3 Therefore:

- The Leader is the main spokesperson on cross cutting policies and issues at national level.
- Executive Members are spokesmen for the Council in their respective portfolios.
- Other leading Members (such as Chairmen of Scrutiny and Development Management) will be quoted and referred to in relation to issues within their own areas of expertise.
- The Chairman will be the spokesman on all matters of a civic or ceremonial nature.
- Officers are also important spokesmen for the [Council Authority](#). Whilst the Communications Team can and will

handle many factual enquiries, there will be many occasions when more specialist or technical information will be required.

- In these instances it is expected that senior officers (Chief Executive and Directors) will handle media interviews.
- Other officers, with the agreement of their respective Director, may also be the most appropriate person to handle media enquiries and this can be facilitated with support from the Communications Team.

4.0 Other officers

- 4.1 Officers who are contacted directly by the media without advance knowledge, agreement or preparation are advised to politely redirect the request to the Communications Team in the first instance.

5.0 Ward MembersCouncillors

- 5.1 The Communications Team is happy to advise Ward MembersCouncillors who are approached directly by the media for comment/interview but it is not a political resource.

6.0 The Legal Framework

- 6.1 Council resources can only be used for non party-political publicity of the work of the Council – not for criticism of the Council or of Council policies.
- 6.2 All Council publicity and media work is governed by provisions in the Local Government Act 1972, the Local Government Act 1986 and the Government's Code of Recommended Practice on Local Authority Publicity 1988 as Revised 2001.
- 6.3 Collectively these pieces of legislation are intended to ensure that public money is not spent inappropriately on political communications. They require authorities to ensure that "Any publicity describing the Council's policies and aims should be as objective as possible, concentrating on facts or explanation or

both.” They also forbid Councils from publicity which could in any way be construed as being designed to “affect support for a political party”.

- 6.4 Council publicity should focus on publicising the democratically agreed policy.

7.0 Election time

- 7.1 Special restrictions apply during the period prior to elections.
- 7.2 The updated Code of Practice on Local Authority Publicity requires that proactive publicity should be precluded in all its forms for candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual Members or groups of Members.

Note: It is acceptable for the Council Authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a Member level response to an important event outside the Council Authority’s control. Proactive events arranged in this period should not involve Members likely to be standing for election.

- 7.3 Consequently, no Members Councillors will be quoted in news releases produced by East Herts Council in the period leading up to an election.
- 7.4 Wider publicity initiatives also need to be considered carefully during this period.
- 7.5 In the advent of an election, it is possible that prospective candidates (Parliamentary, District, European or County) may request visits to Council services and premises. All candidates must be treated equally and there is no requirement for such requests to be refused. Council staff should not be included in any photographs that may be arranged during such visits.

- 7.6 Within East Herts the Communications Team and/or Legal Services colleagues are best placed to advise and support colleagues on any legal implications of publicity. If in doubt, their advice should also be sought.

8.0 General Media Relations Practice at East Herts

- 8.1 The Communications Team will promote:

- (a) Agreed service initiatives in liaison with the Leader of the Council, Chief Executive and Directors.
- (b) Agreed service initiatives as requested by senior managers in liaison with the Leader of the Council and appropriate Executive Members.
- (c) The role of scrutiny within the overall democratic process, as the opportunity arises, in liaison with the Chief Executive and the Leader of the Council.
- (d) Other activities and developments of the Council through news releases and publications, quoting officers of East Herts and partner organisations and/or service users, where their contributions add to the relevance and interest of the story.
- (e) Ceremonial and cross-organisational events in liaison with the Chairman of the Council.

9.0 At Full Council and Executive Meetings

- 9.1 Agendas will have been issued to the media in advance.
- 9.2 Where appropriate, press releases will be issued following the meeting describing the decision and quoting the Leader or Executive Member as appropriate. Such releases will highlight key issues and will help to explain and publicise Council policies and services.

- 9.3 Motions and questions from individual ~~members~~Councillors shown on the agenda will not be publicised through press releases.
- 9.4 The Communications Team will respond to subsequent press enquiries by providing a factual explanation at officer level (either directly or through another officer). Where a matter of policy is in question, the matter will be referred to the Leader of the Council or the appropriate Executive Member. Interviews and photo opportunities will be facilitated.
- 9.5 Where a reporter wishes to find out what was said by individual ~~Members~~Councillors during a debate, officers will refer the reporter to the ~~Councillor~~Member direct.

10.0 At Other Council Meetings

- 10.1 Communications officers will respond to any press enquiries before the meeting by providing a factual explanation at officer level. Where a matter of policy is in question, they will consult the appropriate Chairman and inform the Chief Executive and/or the Executive Member.
- 10.2 If the meeting (e.g. Scrutiny) collectively agrees to issue a press release on any given topic, this will be prepared and issued by Communications Staff in consultation with and quoting the relevant Chairman following the meeting. These releases will be issued in line with the information item, factually describing the outcome.
- 10.3 Where a matter of policy is in question, Communications Staff will advise the appropriate Chief Officer and/or Executive Member that a release is being issued and will respond to press enquiries following the meeting by providing a factual explanation of the outcome at officer level, in line with the information item.

11.0 Political Communications

- 11.1 The Communications Team can and will only provide professional non party-political communications advice to Members on request.

- 11.2 Nothing in the protocol precludes any political group or individual councillor from issuing their own press information and making any other arrangements for printed or digital media coverage.

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MEMBERS' PLANNING CODE OF GOOD PRACTICE

This Code of Practice supplements the Council's Code of Conduct for Members and where appropriate Members should refer to the Code of Conduct which is also set out in [Part 5 of](#) the Council's Constitution. The Council's Monitoring Officer's advice may be sought on the interpretation of the Code of Conduct or this Code.

The aim of this code of good practice: to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, nor impartial or not well founded in any way.

The key purpose of Planning: to [plan for the future needs of the district and its residents and to](#)~~proactively manage control~~ development proactively in the public interest.

The role of a Member of the Planning Authority (those members who sit on Development Management Committee): to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

The role of a Member of the Council: when involved in decisions about planning policy, [development management](#) or other matters related to planning which are not in the remit of the Planning Authority, members should follow the principles in this code and act openly, impartially, with sound judgement and for justifiable reasons.

1.0 Introduction

- 1.1 Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of members of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the community.

- 1.2 The planning system can only function effectively if there is trust amongst those involved. There must be trust between Members and Officers and between the public and the Council. The Third report of the Committee on Standards in Public Life (the Nolan Committee) (1997) recommended that each local authority's practices and procedures were set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system.
- 1.3 The Council is committed to open, fair and transparent decision-making. Planning decisions should be made impartially, with sound judgement and for justifiable reasons.
- 1.4 This Code of Practice sets out practices and procedures that Members and Officers shall follow when involved in planning matters. Planning matters include the consideration of planning applications [\(development management\)](#), the preparation of development plans and other planning policy [work](#) and the enforcement of planning control.
- 1.5 Failure to follow this Code without good reason could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual elected Members and officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Members. If in doubt about what course of action to take, a member or officer should seek the advice of the Council's Monitoring Officer.
- 1.6 This Code of Practice sets out principles to guide Members and officers in determining planning applications and making other decisions within the terms of reference of Development Management Committee. Although of particular relevance to members of Development Management Committee it applies to all Members of the Council who may become involved in planning and development matters [through any of its decision making processes that deal with planning matters-](#)

2.0 The Role and Conduct of Members and Officers

- 2.1 Members and Officers have different, but complementary roles. Both serve the public but Members are responsible to

the electorate, while Officers are responsible to the Council as a whole.

- 2.2 The role of a Member of the Development Management Committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 2.3 Whilst Members have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to Members involved in making a planning decision. A key role of the planning system is the consideration of development proposals against the wider public interest.
- 2.4 Members' decisions shall not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Members must, therefore, consider all of the **material issues** in the light of Development Plan policies, Government advice and their own individual judgement and make a decision in the interests of the area as a whole.
- 2.5 Whilst Members should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 2.6 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 2.7 Officers in their role of advising Members shall provide:
 - (a) Impartial and professional advice;
 - (b) Consistency of interpretation of planning policy; and
 - (c) Complete written reports covering all necessary information for a decision to be made.

- 2.8 The Council endorses the statement in the RTPI ~~code~~ Code of Professional Conduct (Feb 2016) that, 'RTPI members ~~shall~~ must not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions', and extends it to apply to all officers in the authority advising on planning matters.

3.0 Interests of Members

- 3.1 Where the interest is such that Members of the public may feel that the Member will not be able to approach matters with an open mind and consider the application on its planning merits, Members should consider withdrawing from the Committee for that item.
- 3.2 The Code of Conduct for Members provides guidance as to Disclosable Pecuniary Interests which may affect a Member's ability to take part in the decision-making process.
- 3.3 Members should also consider carefully whether in any particular case they could reasonably be seen to approach the planning ~~matter merits of the application~~ with an open mind. If the Member considers that this is not possible, the Member should withdraw from consideration of that ~~item~~ matter.
- 3.4 The integrity of the planning system requires openness on the part of Members; it must operate fairly and be seen to operate fairly.

3.5

Members must:

- (a) disclose the extent and nature of their interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Members should preferably disclose their interest at the beginning of the committee meeting and not just at the commencement of discussion on that particular matter.

(b) then act accordingly.

3.6 Prejudicial Interests

3.6.1(a) Where an interest is prejudicial, members must not:

- (i) participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.
- (ii) try to represent ward views; get another ward member to do it instead.
- (iii) get involved in the processing of ~~the~~an application.
- (iv) seek or accept any preferential treatment, or place themselves in a position that could lead the public to think they are receiving preferential treatment, because of their position as a Councillor. This would include using their position to discuss personally with officers an application in which they have a personal ~~and~~ prejudicial interest when other members of the public would not have the opportunity to do so.

(b)3.6.2 ———Members must be aware that:

- (i) whilst they are not prevented from seeking to explain and justify a proposal in which they have a prejudicial interest to an appropriate officer (in person or in writing), the Code places greater limitations on them in representing the proposal than it would a normal member of the public. For example, where a member has a personal and prejudicial interest in a proposal, they will have to be absent from the meeting, including not being able to speak as a member of the public.
- (ii) they should notify the Monitoring Officer in writing of their own proposals and those where they act as agent for a third party – this notification should be

made no later than submission of the application or related matter. Where this relates to a planning application, such applications these proposals will always be reported to and determined by the Development Management Committee as main items and will not dealt with by officers under delegated powers.

3.5 Members should seek guidance from officers where appropriate.

3.6 **Fettering Discretion in the Planning Process**

(a) Members should not fetter their discretion and therefore their ability to participate in planning decision making at the Council by judging, or appearing to judge, a planning matter in advance elsewhere, including whilst serving on another body. Furthermore they may put the Council at risk of legal proceedings if they you do so.

(b) Members should be aware that this includes where the Council is the landowner, developer or applicant and they have acted as, or could be perceived as being, a chief advocate for the proposal, either on behalf of the Council or in respect of a particular area. This would include participation as a member of the Committee meeting which undertook to sponsor the proposal.

(c) Members should be aware that this includes where they could be perceived as being an advocate for a proposal where it has been submitted by another public authority of which they are a member or in which they hold a position of general control or management. (This would include, for example, a proposal from:

(i) a County, Town or Parish Council for which they are also a Councillor; or

(ii) a school or college for which they are a governor, where they have acted in relation to the proposal.)

- (d) Under the Members' Code of Conduct, a member may choose not to regard themselves as having a prejudicial interest in relation to their position on another public authority, but it is recommended they **do so when determining planning proposals.**
 - (i) –Members should not speak and vote on an application/matter where this is the case. They do not also have to withdraw, but they may prefer to do so for the sake of appearances.
 - (ii) –Members should explain that they do not intend to speak and vote because they have or they could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes. Members should use the disclosure of interest form provided.
 - (iii) –Members should take the opportunity to exercise their separate rights as a Ward Member where they have fettered their discretion but do not have a personal and prejudicial interest. If they do they should:
 - (iv) –Members should advise the proper officer or Chairman that they wish to speak in the capacity before commencement of the item;
 - (v) –Members should remove themselves from the member seating area for the duration of that item
 - (vi) –Members should decide where they wish to exercise their decision-making powers.

4.0 Lobbying of and by Members

- 4.1 Lobbying is a normal ~~and proper~~ part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an

approach to their local Member or Members of [a-the](#) Development Management Committee. However, reacting to lobbying can lead to the impartiality of a Member being called into question.

- 4.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning officer all need to be considered before a Member is in a position to make a balanced judgement on the merits of the case. Members should provide officers with copies of any lobbying material they may have received, whether in favour or against a proposal.
- 4.3 The time for individual Members of the Development Management Committee to make a decision on a proposal is at the Committee meeting when all available information is to hand and has been duly considered.
- 4.4 A Development Management Committee member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to officers). Even though they may agree with a particular view, Development Management Committee members should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if Members do not retain open minds and are not genuinely susceptible to persuasion at the decision-making meeting. Members who are lobbied should:

(a) make clear that they reserve their final decision on a proposal until the committee meeting;

(b) only give procedural advice;

(c) consider referring those lobbying to the relevant Officer who can provide further advice; and

(d) not seek to meet an applicant or potential applicant alone.

4.5 Members should remember that their overriding duty is to the whole community not just to the people in their ward and, taking account of the need to make decisions impartially, that they should not favour, or appear to favour, any person, company, group or locality.

4.6 Members should not discuss any applications or decide how to vote at any sort of political group meeting, or press any other Member to do so, in advance of the meeting at which any planning decision is to be taken.

4.7 Members of the Development Management Committee shall not, ~~in general~~, organise support or opposition for a proposal, or lobby other Members (other than when addressing the Development Management Committee). Members shall not put ~~improper~~ pressure on officers for a particular recommendation.

4.68 The local Member who is not a member of the Development Management Committee will be allowed to attend and speak at the decision-making meeting (~~either presenting their own views if they are an affected party or representing the views of their ward~~) but not may not vote. vote and in the case of the former the Member shall leave the Chamber after speaking during the remainder of the debate and vote on the item. A The Member of an adjacent ward substantially affected by the proposal shall, at the discretion of the Chairman of the Development Management Committee be allowed to attend and speak at the decision-making meeting (~~either presenting their own views if they are an affected party or representing the views of their ward~~) but not vote.

4.79 The local Mmembers should speak after objectors but before the Applicant or their representative. In so doing tThis enables the Applicant to respond to commentacerns raisedmade by the Objector or Members in their presentation and ensures the Applicant has the last word in respect of their application.

4.1087 Subject to the provisions of this Code, Members of a-the Development Management Committee must be free to vote as they consider appropriate on planning matters.

4.9811 Members should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate Officers.

4.1029 Members should avoid accepting gifts or hospitality wherever possible. If a degree of hospitality is unavoidable, members should ensure it is of a minimum, its acceptance is declared as soon as possible and that where the value is over £25 it is registered with the Monitoring Officer.

4.1130 Unless a member has a ~~Personal and Prejudicial~~pecuniary and nonpecuniary interest, this does not prevent them from:

- (a)- being able to listen/receive viewpoints from residents or other interested parties;
- (b) making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and the member makes clear they are keeping an open mind;
- (c) -seeking information through appropriate channels; or
- (d) -being a vehicle for the expression of opinion or speaking at the meeting as a ward member, provided they explain their actions at the start of the meeting/item and make it clear that, having expressed the opinion or ward view, they will make up their mind having heard all the facts and listened to the debate.

5.0 Pre- and Post- Application Discussions and Negotiations

- 5.1 Discussions between an applicant and a planning authority, prior to the submission of an application can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process. However, they should take place within clear guidelines, as follows.
- 5.2 It should always be made clear at the outset that the discussions [at the pre application stage](#) will not bind the Council to making a particular decision and that any views expressed are those of the Officer only, and are provisional.
- 5.3 Advice should be consistent and based upon the Development Plan and [relevant](#) material considerations. There should be no significant difference of interpretation of planning policies by individual planning officers.
- 5.4 A written note should be made of all potentially contentious meetings. Two or more officers should attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.
- 5.5 Members need to preserve their role as impartial decision makers. ~~and should not take part in isolation in pre or post submission discussions and negotiations with applicants regarding development proposals. When requested by officers, Members can may and should be involved in pre and post application processes which are run through and co-ordinated by Officers (including through Should there be occasions when Members are involved (such as during the masterplanning process where Members are actively encouraged to become involved), it should be.~~ [These processes will be](#) part of a structured arrangement with Officers, including a senior planning officer. Members must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.
- 5.6 Members may receive information from applicants and give information to applicants and ~~m~~Members of the public but, to safeguard their impartiality, they should maintain a clear

distinction between receiving information and negotiating. Any information received by Members should be provided to the officers dealing with the application. Members who are approached for planning, procedural or technical advice should refer the applicant to the relevant officer.

5.7 Applicant ~~presenations~~presentations

In respect of presentations members should:

- (a) be aware that a presentation is a form of lobbying and they must not express any strong view or state how they or other Members might vote.
- (b) **not** attend presentations unless they have been organised by officers ~~or~~ and an officer is present, unless they are events where the general public are in attendance (such as consultation events).
- (c) ask relevant questions for the purposes of clarifying their understanding of the proposals.
- (d) remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.

6.0 Officer Reports to Committee

- 6.1 The Head of Planning and Building Control (or their delegate) will submit written reports to the appropriate Development Management Committee on planning applications to be determined by the Council. The reports will give the background to the application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant Development Plan and Government policy considerations, together with any other material considerations. Where a planning application requires an environmental impact assessment the Head of Planning and Building Control shall

include in his/her report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with his/her own comments. The reports will include a summary of representations made about the application. The Head of Planning and Building Control in his/her report will give a reasoned assessment of the proposals and a justified recommendation.

6.2 Officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views and opinions will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views opinions or decisions of the Committee or its Members.

6.2 Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.

6.3 The Head of Planning and Building Control will have available for inspection by Members the full planning application, environmental statement (where required) and representations from bodies consulted and members of the public.

7.0 Planning Considerations

7.1 Planning decisions should be made on planning considerations and should not be based on immaterial considerations.

7.2 Members of Development Management Committee ~~should~~ must attend the training sessions which ~~may be organised from time to time~~ are designed to ensure that members are adequately equipped to make sound planning decisions. No Member may sit on Development Management Committee unless they have attended such training as agreed

necessary by the Council (see section 11XX below for further detail). All other Members are encouraged to attend.

- 7.3 Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons which can be substantiated.
- 7.4 Having identified all the material planning considerations and put to one side all the immaterial considerations, Members must come to a carefully balanced decision which can be substantiated, if challenged on appeal.

8.0 The Decision Making Process

- 8.1 Members shall recognise ~~that~~ the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 8.2 Where an environmental impact assessment is required, the Development Management Committee shall take the information provided in the report into consideration when determining the application.
- 8.3 A member should only vote or take part in the meeting's discussion on a proposal if they have been present to hear the entire debate, including the officers' introduction to the matter.
- 8.4 If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.
- 8.54 Where the Development Management Committee decide to adopt the recommendation of the Head of Planning and Building Control, the reasons contained in his/her report will be minuted, together with any additional reasons determined by the Committee.

8.65 Where the Development Management Committee is minded to approve or to refuse a planning application, contrary to the recommendation of the Head of Planning and Building Control, or the Development Plan, any member who is proposing, seconding or supporting such a decision should clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and, be recorded and officers be afforded an opportunity to provide advice in relation to them before a vote is taken. Members should be aware that they may have to justify the resulting decision by giving evidence in the event of any challenge. ~~agreement shall be reached at the meeting on the planning reasons for that decision. They shall be fully minuted.~~

8.76 The reasons for Committee's decision to defer any proposal should also be recorded.

9.0 Site Visits

9.1 Members should ensure that they are sufficiently familiar with land and sites in relation to which they are making a decision. In most circumstances, this will require a visit to the site and area, prior to the meeting at which a decision is being made. A specific visit may not be necessary if members are already familiar with a site. Prior to a site visit Members should familiarise themselves with the issues which are likely to require their attention at the visit by a first assessment of the Officers report.

The Council, in general, does not organise collective visits to sites. Therefore it is the member's responsibility to ensure they undertake site visits as necessary.

Any visit should only be undertaken from publically accessible land, such as the public highway, public footpaths, public amenity areas. Members should not enter private land unless they have the consent from the land owner to do so. If they do, members should identify themselves.

Any information gained from the site visit should be reported back to the Committee, so that all Members have the same information.

9.2 The site visit should be treated as an opportunity to seek information and to observe the site. The purpose of a site visit is to gain information relating to the land and buildings that is the subject of the planning application matter, which is may not be apparent from the report to be considered by the Development Management or other relevant Committee. A site visit may also assist Members in matters relating to the context of the application in relation to the characteristics of the surrounding area. Members are encouraged to visit sites accompanied by other Members.

9.3 Do Members should not hear representations from any other party at a site visit, with the exception of the Ward/Local Member(s) whose address must focus only on site factors and site issues. Where you area Member is approached by the applicant or a third party, they should advise them that they should make representations in writing to the authority and direct them to or inform the officer present. Members should make a note recording the details of the meeting.

Ensuring that they are aware of the issues likely to be relevant to the site, if members are approached by any party at a site visit, they should consider whether they should then hear representations from other relevant parties, whilst at the site

9.4 Do not express opinions or views to anyone. Members should not express an opinion on the any planning application and its merits (or otherwise) at the site visit.

9.5 Where, on occasion, a collective site visit is organised, a planning officer will be present. The planning officer will, in advance, ensure that all present are aware of the arrangements for the visit, the manner in which it is organised and identify those who are permitted to address Members at the visit.Do not enter a site which is subject to a proposal unless:

You feel it is essential for you to visit the site;

~~You can ensure you will comply with these good practice rules on site visits, and~~

~~Identify yourself (if necessary).~~

10.0 Representations on Planning Applications

10.1 Wherever possible, objections or representations to planning applications should be made in writing. Written representations received will be made available for public inspection and objections summarised and reported to the Development Management Committee. Members will be given the opportunity to inspect all letters received before the decision on the application is made.

10.2 There will be occasions when applicants or objectors, or both, may wish to make representations in person to the Development Management Committee.

10.3 The Council has a scheme for public speaking at Development Management Committee. Details of this scheme are on the Council's website.

10.4 Members should not allow members of the public to communicate with them (orally ~~or~~, in writing or by any other means) during the Committee's proceedings other than through the public speaking arrangements, as this may give the appearance of bias.

~~11.0 Review of Decisions~~

~~11.1 The Audit Commission's Report, 'Building in Quality', recommended that elected members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.~~

~~11.2 Visits to application sites previously considered by the Council shall be organised in tandem with visits to current application sites, as appropriate. Briefing notes shall be prepared in each case.~~

~~11.3 Attendance at the review site visits shall be restricted to members of the committee and the local Member.~~

121.0 Training

112.1 Members should not participate in decision-making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.

112.2 Members should undertake continuous professional development in relation to their role as a member of the DM Committee. ~~endeavour to attend any other specialised training sessions provided since these will be designed to extend Members' knowledge of planning law including, regulations, procedures, Codes of Practice and the Development Plans and relevant material considerations beyond the minimum referred to above and thus assist you Members in carrying out your their role properly and effectively.~~

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*****NEW SECTION*****

Part 5 I—GIFTS AND HOSPITALITY

CODE OF CONDUCT FOR ~~councillor~~MEMBERS

1.0 Introduction

- 1.1 The acceptance of gifts and hospitality by ~~Councillor~~Members is not merely an administrative issue. It reflects directly upon the perception of both ~~Councillor~~Members and the Council - as acting either in the public interest or for the personal advantage of friends/relatives or ~~councillor~~members' themselves.
- 1.2 The Members' Code of Conduct (Part 5 B~~(5x)~~ in this constitution) sets out the principles relating to gifts and hospitality. These requirements are then supplemented by the code and procedures set out below, to provide a clear set of rules for the protection of both ~~Councillor~~Members and the Council. Acceptance of a gift or hospitality in breach of the Code, or failure to declare receipt of such a gift or hospitality, can lead to disqualification from holding any public office for a period of up to five years. Corrupt acceptance of a gift or hospitality can lead to an unlimited fine and up to ten years' imprisonment.
- 1.3 This Code of Conduct sets out:
 - (a) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality;
 - (b) a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it;
 - (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the Council.

- 1.4 This Code does not apply to the acceptance of any facilities or hospitality which may be provided to you by the Council itself.

2.0 General Principles

- 2.1 In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do so would be in breach of one or more of these principles:

- 2.2 Never accept a gift or hospitality as an inducement or reward for anything you do as a ~~Councillor~~Member

(a) As a ~~Councillor~~Member, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.

(b) The Bribery Act 2010 provides that you should not accept any financial advantage where the result would be that the advantage which would itself constitute the improper performance of a relevant function or activity that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing or forbearing to do anything in respect of any matter or transaction in which the Council is concerned, you commit a criminal offence carrying a maximum term of imprisonment of ten years.

(c) Further, the Council's Code of Conduct for Members provides that you must act in the public interest, serving the Council and the whole community, rather than acting in the interests of any particular individual or section of the

community, and that it is a breach of the Code to improperly to confer any advantage or disadvantage on any person, including yourself.

2.3 You should only accept a gift or hospitality if there is a commensurate benefit to the Council.

(a) The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Council which would not have been available but for the acceptance of that gift or hospitality.

(b) Acceptance of hospitality can confer an advantage on the Council, such as an opportunity to progress the business of the Council expeditiously through a working lunch, or to canvass the interests of the Council and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. ~~But U~~unless the benefit to the Council is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.

(c) As set out above, the Council's code provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a ~~Councillor~~Member of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the Council, would be a breach of the Code.

2.4 Never accept a gift or hospitality if acceptance might be open to misinterpretation

(a) The appearance of impropriety can be just as damaging to the Council and to you as a ~~Councillor~~Member as actual impropriety. The Council's ability to govern rests upon its

reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the Council favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.

(b) Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:

(ii) occasions when the Council is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer.

(iii) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination,

(iv) funding decisions, when the Council is determining a grant application by any person or organisation.

2.5 Never accept a gift or hospitality which puts you under an improper obligation

(a) Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the Council.

2.5 Never solicit a gift or hospitality

- (a) You must never solicit or invite an offer of a gift or hospitality in connection with your position as a ~~Councillor~~Member unless the acceptance of that gift or hospitality would be permitted under this Code. You should also take care to avoid giving any indication that you might be open to such any improper offer.

3.0 Accepting gifts – the procedures

3.1 General consent provisions

- (a) For clarity, the Council has agreed that you may accept gifts and hospitality in the following circumstances:
 - (i) civic hospitality provided by another public body
 - (ii) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits
 - (iii) tickets for sporting, cultural and entertainment events which are sponsored by the Council
 - (iv) small gifts of low intrinsic value, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise
 - (v) a modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a contractor or party with whom you have done business on behalf of the Council if you meet accidentally in a public house, cafe or bar. In

such cases, you should make reasonable efforts to return the offer where this is practicable

(vi) a modest working lunch in the course of a meeting in the offices of a party with whom the Council has an existing business connection where this is required in order to facilitate the conduct of that business.

~~Councillor~~Members should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must be modest

(vii) modest souvenir gifts from another public body given on the occasion of a visit by or to the Council

(viii) Hospitality received in the course of an external visit or meeting which has been duly authorised by the Council. ~~Councillor~~Members should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction to make it clear that any such hospitality for ~~Councillor~~Members and officers is to be no more than commensurate with the nature of the visit

(ix) other unsolicited gifts, eg chocolates where it is impracticable to return them to the person or organisation making the gift, provided that the ~~Councillor~~Member deals with the gift strictly in accordance with the following procedure: The ~~Councillor~~Member must, as soon as practicable after the receipt of the gift, pass it to the Chief Executive together with a written statement identifying the information set out in Paragraph 4 below. The Chief Executive will then arrange to write to the person or organisation making the gift thanking them on your behalf for the gift and either returning it or donating the

gift to a charity or other good cause as the Chief Executive thinks fit.

3.2 Special consent provisions

- (a) If you wish to accept any gift or hospitality which is in accordance with the General Principles set out in Paragraph 2 above, but is not within any of the general consents set out in Paragraph 3.1, you may only do so if you have previously obtained specific consent in accordance with the following procedure:
- (b) You must make an application in writing to the Monitoring Officer, setting out:
 - (i) the nature and your estimate of the market value of the gift or hospitality
 - (ii) who the invitation or offer has been made by or on behalf of
 - (iii) the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the Council in which they have been involved
 - (iv) any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the Council
 - (v) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper
- (c) You must not accept the gift or hospitality until you have received the appropriate consent.

(d) The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the Council's accounts for the relevant year. You should note that this does **not** relieve you of the obligation to register the receipt of gifts and hospitality in accordance with Paragraph 4, below.

4.0 Reporting

- 4.1 Where you accept any gift or hospitality which you estimate to have a **market value or cost of provision of £25 or greater**, you must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer. A form for this purpose is attached to this Code, but you can send the same information by any convenient means. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the Council's accounts for the year in question.
- 4.2 Even if the value of the gift or hospitality is less than £25, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may make a voluntary declaration in the same manner to ensure openness regarding that there is nothing secret or underhand about the gift or hospitality.

5.0 Gifts to the Council

- 5.1 Gifts to the Council may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the Council. You should not solicit any such gift on behalf of the Council except where the Council has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and developers' contributions under Section 106 Agreements. If you receive such an offer on behalf of the Council, you must first consider whether it is appropriate for the Council to

accept the offer (in terms of whether the acceptance of the gift might be seen as putting the Council under any improper obligation, whether there is a real benefit to the Council which would outweigh any dis-benefits).

- 5.2 If you do not have delegated authority by the Council to accept the gift, you should report the offer directly to the Chief Executive who has such delegated authority, together with your recommendation. The Chief Executive will then write back to the person or organisation making the offer to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the Council. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the Council to accept the gift, you should consult the Chief Executive and/or the Monitoring Officer directly.

6.0 Gifts from ~~Councillor~~Members

- 6.1 A ~~councillor~~member may choose to help a resident in need by personally assisting them with items such as second hand furniture or food stuffs. ~~Councillor~~Members should be careful that they maintain a professional and transparent relationship in such circumstances and that no such gifts could be perceived as inappropriate in any sense. ~~Councillor~~Members may wish to record these gifts in the same way as the recording of gifts received by ~~councillor~~members set out in paragraph 4 above to aid transparency.

7.0

7.0 Definitions

- 7.1 “Gift or hospitality” includes:

- (a) the free gift of any goods or services

(b) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public

(c) the opportunity to obtain any goods or services which are not available to the general public

(d) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

7.2 References to the “value” or “cost” of any gift or hospitality are references to the higher of:

(a) your estimate of the cost to the person or organisation of providing the gift or consideration

(b) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

To: The Monitoring Officer, East Herts Council

Declaration of Receipt of Gifts or Hospitality

Councillor Councillor <u>Member</u> 's Name	
Councillor Councillor <u>Member</u> 's Address	
What was the gift or hospitality?	
What is your best estimate of its market value or cost?	
Who provided it?	
When and where did you receive it?	
Does it come within one of the general consents set out in the Code of Conduct? If so, which?	
Did you get the consent of any officer before accepting it?	
Were there any special circumstances justifying acceptance of this gift or hospitality?	
Do you have any contact in your job with the person or organisation providing the gift or hospitality?	
Signed:	Date:

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PART 6

Members' Allowances Scheme

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EAST HERTS COUNCIL

LOCAL GOVERNMENT AND HOUSING ACT 1989

AND

LOCAL AUTHORITIES (MEMBERS' ALLOWANCES)

REGULATIONS 1993 (AS AMENDED)

MEMBERS' ALLOWANCES SCHEME

(including Special Responsibility Allowances)

(Revised May 2017)

1.0 Introduction

- 1.1 This scheme is made by East Herts Council pursuant to the Local Authorities (Members' Allowances) (England) Regulations 2003. It was approved by the Council on 17 May 2018 after consideration of the recommendations from the Independent Remuneration Panel.
- 1.2 The Scheme will apply from 18 May 2018 to 15 May 2019.

2.0 Basic Allowance

- 2.1 Subject to paragraphs 9 and 10 below, for each year a basic allowance shall be paid to each Member as set out in Schedule 1 to the scheme.
- 2.2 The basis allowance is to be paid in equal instalments on the 15th day of each month.

3.0 Special Responsibility Allowance (SRA)

- 3.1 Subject to paragraphs 9 and 10 below, for each year a SRA shall be paid to those Members who hold the special responsibilities that are set out in Schedule 1 to the scheme.
- 3.2 Members will be restricted to receiving only one SRA (i.e. that of the higher value) if they occupy two or more posts which attract SRAs.
- 3.3 The SRA is to be paid in equal instalments on the 15th day of each month.

4.0 Indexation

- 4.1 No allowances will be index linked.

5.0 Travel and Subsistence Allowance

- 5.1 Members are able to claim travel allowance in respect of their travel to and from:

- (a) meetings covered by the list of approved duties referred to in Schedule 2;
- (b) meetings of outside bodies and organisations to which they have been appointed by the Council as set out in Schedule 3, provided that no other arrangements for payment exist in respect of such bodies to which the Authority makes appointments or nominations; and
- (c) meetings with the Chief Executive, Directors and/or Heads of Service/Service Manager, subject to such meetings having been pre-arranged and not relating specifically to a Member's ward work or activities.

5.2 Travel allowances under approved duties will only be paid on the basis that a Member travels from their home address to the meeting, etc, and returns to their home address within the District or an adjacent District/Borough. No payments will be made for any additional costs incurred over and above those costs of travel from a Member's home address within the District or an adjacent District/Borough to a meeting and return.

5.3 Members are able to claim subsistence allowances where they are prevented by official duties from taking a meal at home or other place where normally taken. Claims will not be permitted where refreshment has been provided by the meeting organiser.

5.4 VAT receipts for the purchase of fuel must be provided with all claims for travel expenses. Receipts must be provided for all subsistence/hotel accommodation/public transport claims and for any expenditure incurred on parking fees when using a vehicle on an approved duty.

5.5 Details of the rates of travel and subsistence allowances are set out in Schedule 1. The rates are directly linked to the rates payable to officers and will be amended as when the officers' scheme is amended.

6.0 Child Care and Dependant Carers' Allowance

- 6.1 Contribution towards costs incurred for the provision of care is payable at the rates set out in Schedule 1.
- 6.2 Contributions in 6.1 above will be paid towards care in respect of:
- (a) children aged 14 or under;
 - (b) elderly relatives requiring full-time care;
 - (c) relatives with disabilities or nursing requirements
 - (d) who require either temporary or permanent full-time care.

In each case, the dependant must normally live with the Member as part of the family and be unable to be left unsupervised. The carer can be any responsible mature person who does not normally live with the claimant as part of the family. The allowance should not be payable in respect of members of the Councillor's immediate and close family.

- 6.3 Receipts must be provided for all carer claims.

7.0 Broadband Allowance

- 7.1 Contribution toward the cost incurred in providing broadband connection is included within the basic allowance.

8.0 Pensions

- 8.1 No Members be admitted to the Local Government Pension Scheme.

9.0 Renunciation

- 9.1 A Councillor may by notice in writing given to the Head of Legal and Democratic Services elect to forego any part of their entitlement to an allowance under this scheme.

10.0 Part Year Entitlements

- 10.1 Where a Member's term of office begins or ends, or the holding of a special responsibility begins or ends, part way in the year, then the entitlement to any allowances due to a Member will be in the same proportion as the number of days served in the year.
- 10.2 When an amendment to this scheme changes the amount to which a Member is entitled, then the existing rates are payable ending with the day before the amendment takes effect.
- 10.3 The s151 Officer be authorised to determine allowance entitlements in circumstances where:
- (a) the scheme of allowances is amended at any time throughout the year;
 - (b) an individual ceases to be a Member, or an individual is elected to the office of Councillor of East Herts Council;
 - (c) in the event that a new chairmanship of a Committee or Panel is created the s151 Officer be authorised to determine the allowance entitlement by reference to the lowest relevant multiplier until review by the Panel.

11.0 Claims

- 11.1 Claims should be made using the claim form prescribed by the Council on a monthly basis. Claims submitted by the fifth day of the month will be processed for payment on the 15th day of that month. Claims received after the 5th day will be processed for payment in the following month.
- 11.2 Receipts as described in paragraphs 5.4 and 6.3 above, must accompany each claim.
- 11.3 In accordance with the Council's Financial Regulations, claims for duties performed more than three months ago are not permitted.

12.0 Record of Allowances

- 12.1 The Head of Human Resources and Organisational Development shall keep a record of all payments made to all Members in accordance with the scheme and the requirements of the Local Authorities (Members' Allowances) (England) Regulations 2003. Such records shall be available for public inspection free of charge at all reasonable times during usual office hours.
- 12.2 The Head of Legal and Democratic Services will issue the required notice under the Regulations providing summary information on the payments made under the scheme each year.

SCHEDULE '1'

	<u>£</u>
<u>Basic Allowance (BA):</u>	5,270.00
<u>Special Responsibility Allowances:</u>	
Leader of the Council	19,377.00
Deputy Leader	12,105.00
Executive Member	9,684.00
Committee Chairman (Development Management)	7,263.00
Committee Chairman (Licensing)	6,051.00
Committee Chairman (Human Resources)	4,842.00
Committee Chairman (Overview and Scrutiny, Performance, Audit and Governance Scrutiny)	6,400.00
Leader of a minority political group	A factor of 0.1 of the Basic Allowance multiplied by the number of members
<u>Mileage allowance:</u>	
Motor vehicles (<i>incl. cycles</i>)	£0.45 per mile for the first 10,000 miles of a (return) journey
Electric vehicle	£0.20 per mile
Bicycles	£0.20 per mile

<u>Public Transport:</u> (including the use of taxis for short journeys where public transport is not convenient)	Reimbursement of actual cost or ordinary standard fare, whichever is the lesser upon production of a receipt
<u>Carer's Allowance – Dependent care:</u>	Maximum of 10.15 per hour
<u>Childcare Allowance -</u>	Maximum of £9.00 per hour
<u>Subsistence Allowance</u> in the case of an absence, not involving an absence overnight from the usual place of residence:	
of more than 4 hours before 11 am Breakfast*	£7.21
of more than 4 hours, including the period between noon and 2.30 pm Lunch*	£9.95
of more than 4 hours, including the period 2.30 pm to 7 pm Tea*	£3.94
of more than 4 hours ending after 7 pm** Evening Meal*	£12.33
* Not claimable where refreshments have been provided at the meeting/event attended **Evening meal allowance cannot be claimed with Tea allowance	

<u>Subsistence Allowance</u> in the case of an absence involving an absence overnight from the usual place of residence:	
The actual cost of the most cost effective overnight accommodation and where meals are not included, subsistence allowance as detailed above.	

SCHEDULE '2'

APPROVED DUTIES

1. The following shall be recognised as approved duties:
 - attendance at meetings of the Council, the Executive, a Committee, Sub-Committee, Panel, Working Party or Task and Finish Group of the Authority;
 - attendance at meetings of any other body to which the Authority makes appointments or nominations, or of a Committee or Sub-Committee of such a body, provided that no other arrangements for payment exist in respect of such bodies to which the Authority makes appointments or nominations;
 - attendance at any other meeting which has both been authorised by the Authority (Executive, Scrutiny or Regulatory Committee) and to which representatives of more than one political group have been invited;
 - the attendance at a meeting of a Local Authority Association of which the Council is a Member;
 - carrying out any other duty connected with the Authority's functions approved by the Council (Executive);
 - the following conferences, approved for the purposes of Section 175 of the Local Government Act 1972:

Local Government Association
Chartered Institute of Housing - Housing Conference
Royal Town Planning Institute - Summer School
 - any other conference not mentioned above, or a training course or seminar shall be considered as an approved duty provided that such attendance has been authorised in advance by either the Executive or the Chief Executive.

- attendance relating to site visits in respect of Development Management Committee business for members and substitutes of the Development Management Committee.
2. A member attending any conference, training course or seminar shall be entitled to receive the relevant allowance for travelling and subsistence.
 3. The Chief Executive may, upon application to him/her by any Member of the Council, subject to consultation with the Leader of the Council for the time being, designate the attendance of that Member at any other meeting, training session, seminar or conference or other attendance not hereinbefore specifically referred to as an approved duty for the purpose of this scheme.

SCHEDULE 3 – OUTSIDE BODIES

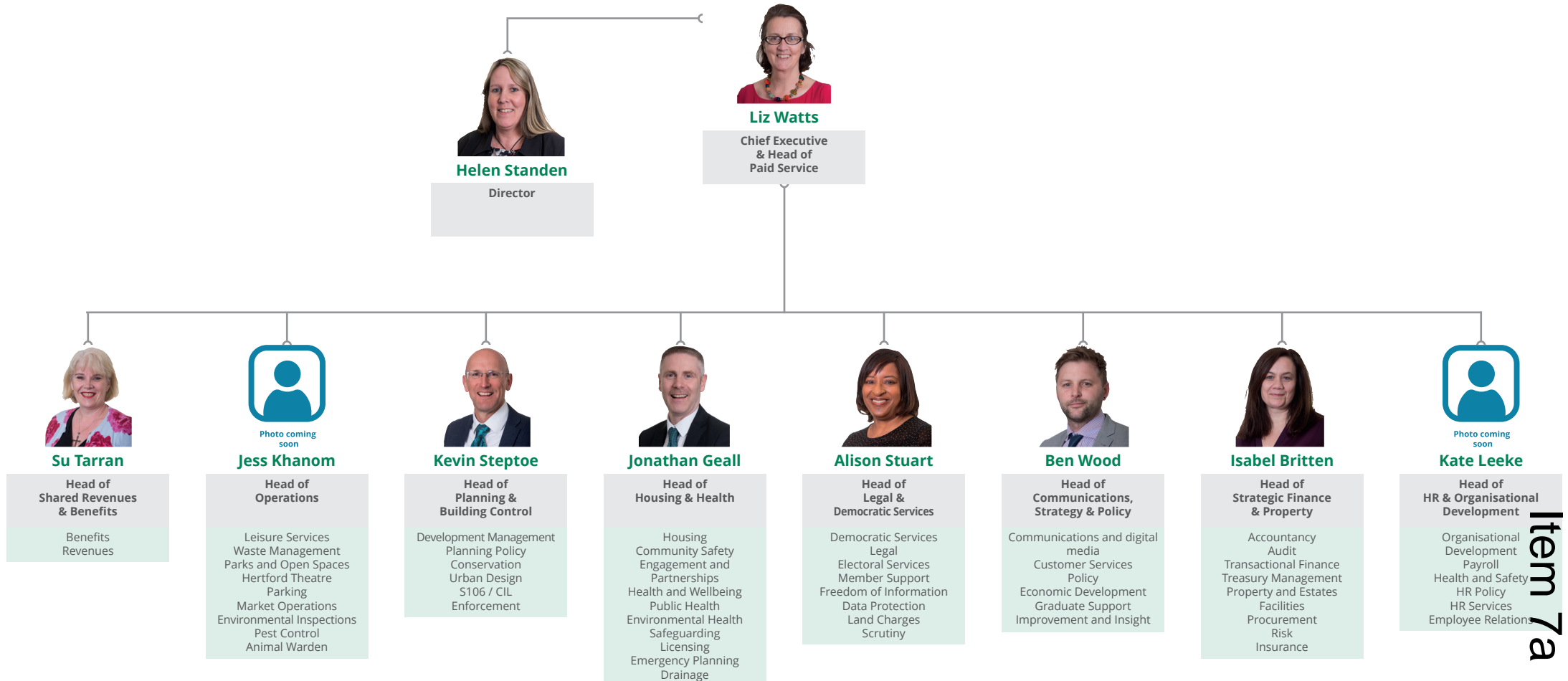
1. Attendance at any meeting on which the Member is nominated to represent or is appointed to represent the Council.
2. Attendance at any conferences, seminars or training events, the attendance at which is approved by the Council, or the Executive or a Committee of either, or the Chief Executive.
3. Attendance at any meetings of a Local Government Association or any Joint or Liaison Committee for Members of Local Authorities.

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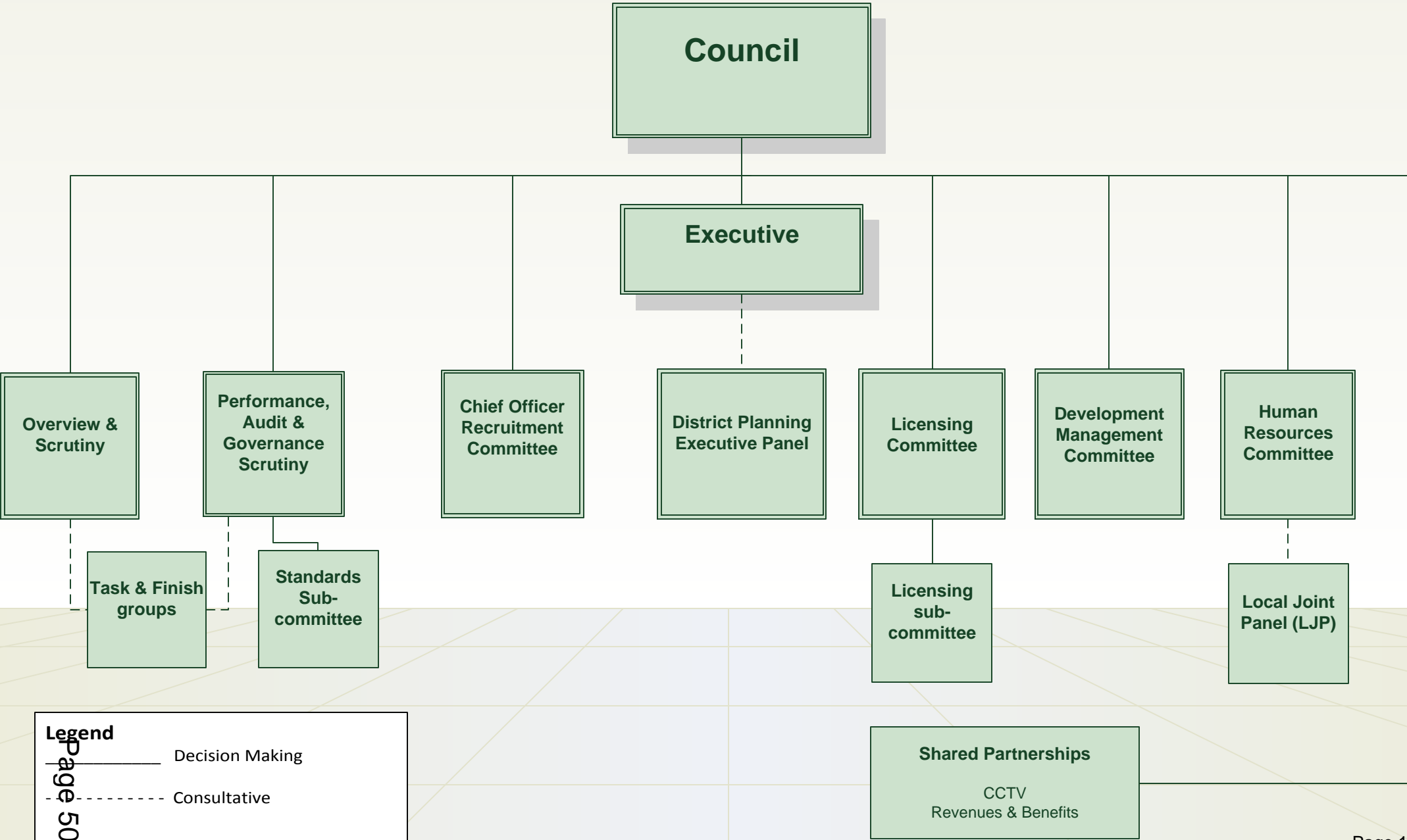
PART 7

Management and Council Structure

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Legend

————— Decision Making

- - - - - Consultative

Item 7b

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