

Public Document Pack

EAST HERTFORDSHIRE DISTRICT COUNCIL

NOTICE IS HEREBY GIVEN that a meeting of East Hertfordshire District Council will be held in the Council Chamber, Wallfields, Hertford on Wednesday 26th September, 2012 at 7.00 pm, for the purpose of transacting the business set out in the Agenda below, and you are hereby summoned to attend.

Dated this 14th day of September 2012

Jeff Hughes
Head of Democratic and
Legal Support Services

Note: Prayers will be said before the meeting commences. Those Members who do not wish to participate will be invited to enter the Chamber at their conclusion

AGENDA

1. Chairman's Announcements

To receive any announcements.

2. Minutes (Pages 7 - 16)

To approve as a correct record and authorise the Chairman to sign the Minutes of the Council meeting held on 7 August 2012.

3. Declarations of Interest

To receive any Members' declarations of interest.

4. Petitions

To receive any petitions.

5. Public Questions

To receive any public questions.

6. Members' questions

To receive any Members' questions.

7. Executive Report - 4 September 2012 (Pages 17 - 24)

To receive a report from the Leader of the Council and to consider recommendations on the matters below:

(A) 4 year Corporate Strategic Plan (2013/14 to 2016/17)

Minute 279 refers

(B) Action Plan to support the East Herts Housing Strategy

Minute 280 refers

(C) Medium term financial strategy (2013/14 to 2016/17)

Minute 281 refers

(D) Monthly Corporate Healthcheck - June and July 2012

Minute 282 refers

Note – Members are asked to bring their copy of the Executive agenda to the meeting.

8. Development Control Committee: Minutes - 15 August 2012 (Pages 25 - 36)

Chairman: Councillor S Rutland-Barsby

9. Corporate Business Scrutiny Committee: Minutes - 21 August 2012 (Pages 37 - 48)

Chairman: Councillor D Andrews

10. Community Scrutiny Committee: Minutes - 28 August 2012 (Pages 49 - 58)

Chairman: Councillor G McAndrew

11. Environment Scrutiny Committee: Minutes - 11 September 2012

*Chairman: Councillor D Abbott
To follow*

12. Development Control Committee: Minutes - 12 September 2012

*Chairman: Councillor S Rutland-Barsby
To follow*

13. Audit Committee: Minutes - 19 September 2012

*Chairman: Councillor J Ranger
To follow*

14. Appointment of Section 151 Officer (Pages 59 - 62)

To receive a report of the Chief Executive and Director of Customer and Community Services.

15. Implications of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (Pages 63 - 146)

To receive a report of the Monitoring Officer.

16. Appointment of the Independent Person (Pages 147 - 150)

To receive a report of the Monitoring Officer.

17. Motions on Notice

To receive Motions on Notice.

DISCLOSABLE PECUNIARY INTERESTS

1. A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:
 - must not participate in any discussion of the matter at the meeting;
 - must not participate in any vote taken on the matter at the meeting;
 - must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
 - 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;
 - must leave the room while any discussion or voting takes place.

2. A DPI is an interest of a Member or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they were civil partners) within the descriptions as defined in the Localism Act 2011.

3. The Authority may grant a Member dispensation, but only in limited circumstances, to enable him/her to participate and vote on a matter in which they have a DPI.

4. It is a criminal offence to:

- fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
- fail to notify the Monitoring Officer, within 28 days, of a DPI that is not on the register that a Member disclosed to a meeting;
- participate in any discussion or vote on a matter in which a Member has a DPI;
- knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

(Note: The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.)

MINUTES OF A MEETING OF THE
COUNCIL HELD IN THE COUNCIL
CHAMBER, WALLFIELDS, HERTFORD ON
TUESDAY 7 AUGUST 2012, AT 7.00 PM

PRESENT: Councillor J Taylor (Chairman)
Councillors D Abbott, D Andrews, W Ashley,
P Ballam, S Basra, E Bedford, R Beeching,
E Buckmaster, M Carver, Mrs R Cheswright,
T Herbert, Mrs D Hollebon, Mrs D Hone,
A Jackson, G Lawrence, J Mayes,
G McAndrew, M McMullen, P Moore,
W Mortimer, M Newman, P Phillips, M Pope,
N Poulton, J Ranger, S Rutland-Barsby,
C Rowley, P Ruffles, N Symonds, M Tindale,
N Wilson, J Wing and C Woodward.

OFFICERS IN ATTENDANCE:

Simon Drinkwater	- Director of Neighbourhood Services
Jeff Hughes	- Head of Democratic and Legal Support Services
Martin Ibrahim	- Democratic Services Team Leader
Alan Madin	- Director of Internal Services
George A Robertson	- Chief Executive and Director of Customer and Community Services

226 CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed the press and public to the meeting and reminded everyone that the meeting was being webcast.

The Chairman advised that she had sent some flowers to Councillor B Wrangles on behalf of all Members and had hoped to see her present tonight.

She recalled that the Authority had adopted a new code of conduct for its Members and maintained a register of Members' interests. Under the Authority's new code, Members only needed to register any Disclosable Pecuniary Interests as specified under the legislation. Members only had to disclose any personal or personal and prejudicial interests that were Disclosable Pecuniary Interests. The Chairman advised that the Monitoring Officer would shortly be contacting all Members with details of training events on this subject. In the interim, any queries should be directed to either the Monitoring Officer (Simon Drinkwater) or Deputy Monitoring Officer (Jeff Hughes).

The Chairman referred to the ongoing Olympic Games and the efforts of the Vice-Chairman in supporting the voluntary effort. She also referred to the torch relay events that had been held in East Herts and paid tribute to the Head of Communications, Engagement and Cultural Services and his team for their work in the preparations.

The Chairman stated that she had performed 12 duties since the previous meeting and highlighted two in particular. The presentation of the Hertfordshire Village of the Year competition in Braughing had been a splendid summer's day attended by many local residents, including Councillor Mrs R Cheswright. The thirty seventh anniversary celebrations of Abbeyfield House in Bishop's Stortford, had also been a memorable occasion and she congratulated the staff for their high standards of care.

Finally, the Chairman reminded Members that her Civic Service would be held on 9 September 2012, at 3.00 pm, at the Parish Church of St Mary the Virgin, Ware. The Civic Dinner would be held on 20 October 2012, at Fletcher's Lea, Ware Priory. All Members were invited to both events and to contribute raffle prizes.

227 MINUTES

RESOLVED – that the Minutes of the meeting held on 4 July 2012, be approved as a correct record and signed by the Chairman.

228 DECLARATIONS OF INTEREST

In respect of Minute 238 – Strategic Land Availability Assessment – Stage 2 – Update Report, Councillor R Beeching disclosed a pecuniary interest and left the chamber whilst it was considered.

229 MEMBERS' QUESTIONS

Question 1

Councillor N Symonds asked the Executive Member for Health, Housing and Community Support if she could explain what East Herts Council was proposing to do in alleviating the time from when a housing benefit form was given to the team and the time it took to process. She believed this was in the region of six to eight weeks, which meant that the most vulnerable residents were being given a notice that an eviction notice would be served if no money was forthcoming. This was both true of the housing associations and private landlords. Councillor N Symonds emphasised that this in no way reflected on the team or managers who were working flat out to clear the backlog.

In the absence of the Executive Member for Health, Housing and Community Support, the Leader responded and stated that the Executive Member could supply any detailed information if necessary.

The Leader acknowledged the increase in the backlog for processing claims and agreed that this was no reflection on the efforts of the staff. He referred to the last meeting of the East Herts and Stevenage Joint Revenues and Benefits Committee, which had noted a dramatic increase in the post received for the first three months of this financial year. As a result of Department of Work and Pensions changes to

working practices, the service was now dealing with more frequent amendments for claimants with a “change of circumstances”. The increased workload had resulted in new claims taking an average of 43 days and “change of circumstances” taking an average of 12 days, which the Leader believed was an unacceptable time.

The Leader advised that the joint Committee had agreed that an additional £120k from each Authority should be allocated to deal with the backlog, by using agency staff in the first place. This would be monitored closely, and if necessary, the Joint Committee would be reconvened. In respect of eviction notices, the Leader assured Members that the Council would be working closely with all landlords.

On a point of information, the Executive Member of Finance commented that the staff had recommended an additional £40k be allocated, but that the Joint Committee had decided on £120k per Authority.

In response to a supplementary question expressing concern for the impact of eviction notices being served on vulnerable sections of the community and the time it would take to clear the backlog, the Leader could not answer when the backlog would be cleared. He gave an assurance that everyone concerned was working hard to bring this down as quickly as possible.

230 EXECUTIVE REPORT - 10 JULY 2012

RESOLVED – that the Minutes of the Executive meeting held on 10 July 2012, be received.

(see also Minutes 231 - 234 below)

231 BISHOP'S STORTFORD TOWN CENTRE BOUNDARY

RESOLVED – that (A) the town centre boundary as defined by the Chase and Partners Retail and Town Centres Study 2008 and attached to the report submitted be agreed;

(B) the boundary as described be adopted by East Herts Council for the purposes of informing the East Herts District Plan and be given the status of material consideration in any planning matters relating to the area described; and

(C) in describing the town boundary, emphasis is given to sustainable mixed uses, retail led / services activities in line with the Central Government guidance as set out in the National Planning Policy Framework.

(see also Minute 230 above)

232 EAST HERTS COMMUNICATION STRATEGY 2012

RESOLVED - that (A) that the comments of the Corporate Business Scrutiny Committee be received; and

(B) the 2012 Communication Strategy as now amended, be approved.

(see also Minute 230 above)

233 PEDESTRIANISED/SHARED SPACE PROPOSALS FOR AN AREA OF BISHOP'S STORTFORD TOWN CENTRE

RESOLVED – that (A) exploration of a combined scheme for time limited pedestrianisation of South Street/Potter Street and creation of Shared Space focused around the South Street/ Station Approach, be endorsed;

(B) Hertfordshire Highways be requested to prepare a programme which sets out the options for a time limited pedestrianisation scheme by carrying out a technical assessment of through traffic, servicing requirements for local traders, public transport facilities and access arrangements from the surrounding catchment area; and

(C) Hertfordshire Highways be requested to prepare

design details of Shared Space for the area around the junction of South Street and Station Road they as part of their current work programme of traffic improvements schemes for Bishop's Stortford.

(see also Minute 230 above)

234 GENERAL FUND REVENUE AND CAPITAL OUTTURN
2011/12

RESOLVED – that the establishment of new Reserves in respect of Environmental Pollution - £62k and Preventing Repossessions - £30k, be approved.

(see also Minute 230 above)

235 EXECUTIVE REPORT - 31 JULY 2012

In respect of Minute 225 – Council Tax Support Scheme, Councillor J Wing asked whether, in view of the complexity of the legislation, it would be possible or appropriate for Members to be given a full briefing on the consequences of the proposed Scheme for benefit claimants.

The Leader stated that he would ask Officers to provide as much information as possible, so that Members fully understood the Scheme when the time came for a decision to be made. This only started the consultation period and he urged all Members to engage in the process.

The Executive Member of Finance added that the proposed Scheme would be submitted to the Community Scrutiny Committee at the end of the consultation process.

RESOLVED – that the Minutes of the Executive meeting held on 31 July 2012, be received.

(see also Minutes 236 - 241 below)

236 LOCAL DEVELOPMENT SCHEME (LDS) VERSION 4
(AUGUST 2012)

RESOLVED - that the Local Development Scheme (LDS) Version 4 – August 2012, attached at Essential Reference Paper 'B' of the report submitted, be supported to take effect from 8 August 2012.

(see also Minute 235 above)

237 SUB-DISTRICT POPULATION AND HOUSEHOLD
FORECASTS – PARISH GROUPINGS AND TOWNS:
PHASE 1 (MAY 2012)

RESOLVED - that the Sub-District 'Population and Household Forecasts - Parish Groupings and Towns: Phase 1' (May 2012) technical study as detailed at Essential Reference Paper 'C' of the report submitted, be supported as part of the evidence base for the preparation of the East Herts District Plan.

(see also Minute 235 above)

238 STRATEGIC LAND AVAILABILITY ASSESSMENT – STAGE
2 – UPDATE REPORT

RESOLVED – that (A) the feedback received from stakeholders as part of Round 2: Stakeholder Engagement of the Strategic Land Availability Assessment (SLAA) be considered and amendments made as appropriate, before a final SLAA Round 2 report is published; and

(B) the use of the District-wide interim SLAA Round 2 capacity of 2,173 dwellings to inform ongoing work in developing the District Plan: Part 1 - Preferred Strategy, be supported.

(see also Minute 235 above)

239 DISTRICT PLAN PART 1 – STRATEGY SUPPORTING DOCUMENT – UPDATE REPORT

RESOLVED – that (A) Essential Reference Paper ‘B’ of the report submitted, containing the latest version of the 1-page summary of the Stepped Approach to strategy selection for the District Plan, be supported; and

(B) the approach to the Audit Trail, be supported, subject to a period for Member comment on the proposed Appendix B: Documents and Feedback, until 31 August 2012.

(see also Minute 235 above)

240 DISTRICT PLAN PART 1 – STRATEGY SUPPORTING DOCUMENT – MATERIAL CHANGES TO DRAFT TOPIC ASSESSMENTS

RESOLVED – that (A) the Material Changes to the Draft Topic Assessments attached at Essential Reference Paper ‘B’ of the report submitted, be supported as replacements to those reported to the Local Development Framework Executive Panel on 29 March 2012, subject to a period for Member comment until 31 August 2012; and

(B) their use be supported as an element of the emerging Supporting Document to the draft District Plan: Part 1 – Strategy.

(see also Minute 235 above)

241 DISTRICT PLAN PART 1 – STRATEGY SUPPORTING DOCUMENT – CHAPTER 4: PLACES AND NEXT STEPS

RESOLVED - that (A) the Draft of Chapter 4: Places contained in Essential Reference Paper ‘B’ of the report submitted, and consisting of Sieve 1 and Sieve 2 in the strategy selection process, be supported;

(B) the scenarios presented in the report and explained in more detail in Essential Reference Paper 'C' of the report submitted, be supported for further assessment in Chapters 5 and 6; and

(C) Essential Reference Papers 'B' and 'C' of the report submitted, be supported, subject to a period of Member comment in respect of factual content, until 31 August 2012.

(see also Minute 235 above)

242 STANDARDS COMMITTEE: MINUTES - 29 JUNE 2012

Council placed on record its appreciation to the independent, parish and town councils' representatives, who had served on the Standards Committee, for their efforts and hard work. The Head of Democratic and Legal Support Services was requested to write to them individually.

RESOLVED – that the Minutes of the Standards Committee meeting held on 29 June 2012, be received.

243 HUMAN RESOURCES COMMITTEE: MINUTES - 11 JULY 2012

Council noted Councillor P Ballam's claim that Councillor A Warman's apology had not been recorded.

RESOLVED – that the Minutes of the Human Resources Committee meeting held on 11 July 2012, be received.

244 AUDIT COMMITTEE: MINUTES - 11 JULY 2012

RESOLVED – that the Minutes of the Audit Committee meeting held on 11 July 2012, be received.

245 LICENSING COMMITTEE: MINUTES - 12 JULY 2012

RESOLVED – that the Minutes of the Licensing Committee meeting held on 12 July 2012, be received.

246 CORPORATE BUSINESS SCRUTINY COMMITTEE:
MINUTES - 17 JULY 2012

Council noted Councillor M Pope’s claim that his apology had not been recorded and that Councillor K Crofton had substituted for him.

RESOLVED – that the Minutes of the Corporate Business Scrutiny Committee meeting held on 17 July 2012, be received.

247 DEVELOPMENT CONTROL COMMITTEE: MINUTES - 18
JULY 2012

RESOLVED – that the Minutes of the Development Control Committee meeting held on 18 July 2012, be received.

The meeting closed at 7.32 pm

Chairman
Date

MINUTES OF A MEETING OF THE
EXECUTIVE HELD IN THE COUNCIL
CHAMBER, WALLFIELDS, HERTFORD ON
TUESDAY 4 SEPTEMBER 2012, AT 7.00
PM

PRESENT: Councillor A Jackson (Chairman/Leader)
Councillors M Alexander, M Carver,
L Haysey, P Phillips and M Tindale.

ALSO PRESENT:

Councillors D Andrews, E Buckmaster,
Mrs R Cheswright, M McMullen, P Moore,
M Pope, J Ranger and S Rutland-Barsby.

OFFICERS IN ATTENDANCE:

Simon Drinkwater	- Director of Neighbourhood Services
Martin Ibrahim	- Democratic Services Team Leader
Alan Madin	- Director of Internal Services
George A Robertson	- Chief Executive and Director of Customer and Community Services

278 DECLARATIONS OF INTEREST

Councillors M Alexander and P Moore declared pecuniary interests in the matter referred to at Minute 280 – East Herts Housing Strategy 2012 – 15, in that they were both board members of Riversmead Housing Association. They left the chamber whilst this matter was considered.

279 **CORPORATE STRATEGIC PLAN (2013/14 TO 2016/17)**

The Executive considered a draft of the Council's Strategic Plan 2013/14 – 2016/17, which outlined priorities for the next four years and identified key outcomes it would be seeking to achieve. The Leader emphasised the Council's developing roles and, in particular, its role as an enabler of services working with other community partners and agencies.

The Corporate Business Scrutiny Committee, at its meeting held on 21 August 2012, recommended the Plan for adoption.

The Executive Member for Health, Housing and Community Support referred to the description of councillors' roles as strong community leaders. She sought an amendment to the third bullet point which balanced the role of being a local champion with the wider need for councillors to take a more strategic view. This was supported by the Executive.

The Executive supported the Plan as now submitted, subject to the amendment now detailed.

RECOMMENDED – that (A) the comments of the Corporate Business Scrutiny Committee be received; and

(B) the 2013/14 – 2016/17 Corporate Strategic Plan be approved, subject to the amendment now detailed.

280 **EAST HERTS HOUSING STRATEGY 2012 - 15**

The Executive Member for Health, Housing and Community Support submitted a draft of the Council's new Housing Strategy 2012 -15 and associated action plan. She stated that the intention of the Plan was to be as flexible as possible and so it would be reviewed annually.

The Community Scrutiny Committee, at its meeting held on 28 August 2012, supported the Strategy and action plan subject to a strengthened statement regarding the Armed Forces Covenant. The Executive Member for Health, Housing and Community Support commented that the forthcoming review of the Allocations Policy would look at how this group and others could be dealt with.

The Executive Member for Strategic Planning and Transport commented on the need for the final document to be made available in hard copy for those members of the community without access to the internet. In reply, the Leader stated that as this comment applied to other documents, he would be raising this general issue with Officers.

In response to a question from Councillor J Ranger, the Executive Member for Finance confirmed that the Local Authority Mortgage Scheme had commenced, but that take up, to date, had been weaker than expected.

The Executive Member for Finance referred to the affordable housing figures and expressed concern that the Authority appeared to be failing its stated objective. Given the continuing economic difficulties, he questioned whether a greater number of affordable housing units could be achieved by actually lowering the 40% threshold. He was also unclear as to whether the economic development challenge had been sufficiently addressed. He suggested deferring the report and reviewing the policy on the affordable housing threshold.

The Executive Member for Strategic Planning and Transport referred to the ongoing work in drafting the District Plan in which the continued provision of an affordable housing threshold on development sites would have to be evidenced as obtainable. He reminded the Executive that the current policy was “up to 40%”.

Various Members spoke against the Executive Member for Finance’s suggestion on the basis that the current policy enabled the Development Control Committee some

flexibility to exercise discretion on a case by case basis.

The Director of Neighbourhood Services advised Members that the affordable housing policy was set as part of the Local Plan and that the Housing Strategy sought to reflect that policy.

On a show of hands, the Executive supported the draft Housing Strategy 2012 – 15, as now submitted, by four votes to one.

RECOMMENDED – that (A) the comments of the Community Scrutiny Committee be received;

(B) the Housing Strategy 2012 - 15 be adopted; and

(C) an annual report to monitor progress of the action plan be submitted to Community Scrutiny Committee.

281 **MEDIUM TERM FINANCIAL PLAN AND STRATEGY
(2013/14 TO 2016/17)**

The Executive Member for Finance submitted a report which considered revisions to the Financial Strategy including the policy on Reserves and the proposed planning assumptions to be used in updating the Medium Term Financial Plan (MTFP).

The Corporate Business Scrutiny Committee, at its meeting held on 21 August 2012, considered the report and made a number of comments as now submitted.

The Executive Member for Finance outlined the funding changes regarding Council Tax Support and Business Rates. He referred to the Financial Strategy as detailed at Essential Reference Paper 'C'. He also detailed Government funding forecasts and other assumptions built into the MTFP model as detailed at Essential Reference Paper 'F' of the report submitted. Here, he reminded Members of the intention for a nil council tax

increase in the remaining term of the current Council through to 2015.

The Executive Member for Finance also referred to the application of the New Homes Bonus and his proposal to cap this at 2012/13 levels until such time as specific initiatives had been identified. The Leader suggested that this could be reviewed as business cases for expenditure came forward.

Councillor J Ranger referred to the recommendation that Officers be asked to extend the financial model until 2019/20 and expressed his view that it would be a waste of time to look beyond the current five year period. The Executive agreed to delete this recommendation, but asked the Executive Member for Finance to revisit the potential merit of this proposal when the new Director of Finance and Support Services was in post.

The Executive supported the proposals as now detailed.

RECOMMENDED – that (A) the comments of the Corporate Business Scrutiny Committee be received;

(B) the proposed Financial Strategy, as now submitted, be adopted; and

(C) the planning assumptions, as now submitted, be adopted as the basis for framing the 2013/14 budget and Medium Term Financial Plan to 2016/17.

282 **MONTHLY CORPORATE HEALTHCHECK - JUNE AND JULY 2012**

The Leader of the Council submitted an exception report on finance and performance monitoring for June – July 2012 and risk monitoring for May - June 2012.

The Executive supported the proposals as now detailed.

RECOMMENDED – that (A) the budgetary variances set out in paragraph 2.1 of the report be noted;

(B) Investment Income in excess of the budgeted sum, to the extent that it is not needed to offset adverse budget variances during 2012/13, be transferred to the Interest Equalisation Reserve at 31 March 2013, as detailed at paragraph 2.2 of the report submitted;

(C) a Supplementary Revenue Estimate of £120,000 in respect of increased workloads in the Revenues and Benefits Service, as outlined in paragraph 2.4 of the report submitted, be approved; and

(D) spend of £358,000 for the provision of rent accommodation from the monies held by Uttlesford Council who act as banker for these funds, be approved, as detailed at paragraph 2.6 of the report.

283 MINUTES

RESOLVED – that the Minutes of the Executive meeting held on 31 July 2012, be approved as a correct record and signed by the Leader.

284 ISSUES ARISING FROM SCRUTINY

The Executive received a report detailing those issues referred to it by the Scrutiny Committees. Issues relating to specific reports for the Executive were considered and detailed at the relevant report of the Executive Member.

RESOLVED – that the report be received.

285 CORPORATE ANNUAL REPORT 2011/12

The Leader of the Council submitted the Annual Report 2011/12, documenting the Council's key achievements for each of the corporate priorities over the last financial year. He

also provided an overview of the Council's financial position and performance and a statement on contracts.

The Corporate Business Scrutiny Committee, at its meeting held on 21 August 2012, recommended the Annual Report for adoption.

The Executive Member for Strategic Planning and Transport referred to various statistics and asked Officers to clarify these and to ensure that the 2011 Census data, where available, was quoted. He also sought an amendment to the final sentence of "The Area" in Section 2, which he believed was clumsy in the way it referenced encroaching development. Finally, he reminded the Executive that some members of the community did not have access to the internet and so requested that some hard copies be produced and made available for the public that wanted it.

Officers undertook to clarify the points raised and make the necessary amendments before the final document was published. A few hard copies would be sent to parishes and made available in libraries. Subject to these amendments, the Executive approved the Annual Report 2011/12 as now submitted.

RESOLVED – that (A) the comments of the Corporate Business Scrutiny Committee be received; and

(B) the 2011/12 Annual Report be approved.

286 DRAFT ANNUAL GOVERNANCE STATEMENT 2011/12

The Leader submitted a report on the draft 2011/12 Annual Governance Statement, in which the Executive had been invited to submit any comments to the Audit Committee. He referred to the comments of the Corporate Business Scrutiny Committee, at its meeting held on 21 August 2012, in which it had suggested to the Audit Committee, that further clarity was needed in relation to stating the appointment of the Leader and Executive Members. It was suggested that clarity could be provided by referencing the relevant legislation.

The Executive supported the draft Statement subject to the comment now detailed.

RESOLVED – that (A) the comments of the Corporate Business Scrutiny Committee be received; and

(B) the Audit Committee be advised that the Executive supports the Annual Governance Statement 2011/12 and Action Plan 2012/13, subject to the clarification relating to the appointment of the Leader, as identified by the Corporate Business Scrutiny Committee.

The meeting closed at 8.31 pm

Chairman
Date

MINUTES OF A MEETING OF THE
DEVELOPMENT CONTROL COMMITTEE
HELD IN THE COUNCIL CHAMBER,
WALLFIELDS, HERTFORD ON
WEDNESDAY 15 AUGUST 2012, AT 7.00
PM

PRESENT: Councillor S Rutland-Barsby (Chairman).
Councillors M Alexander, D Andrews,
E Bedford, S Bull, Mrs R Cheswright,
G Jones, G Lawrence, P Moore, M Newman,
T Page and N Symonds.

ALSO PRESENT:

Councillors W Ashley, P Ruffles and
G Williamson.

OFFICERS IN ATTENDANCE:

Glyn Day	- Principal Planning Enforcement Officer
Simon Drinkwater	- Director of Neighbourhood Services
Peter Mannings	- Democratic Services Officer
Kevin Steptoe	- Head of Planning and Building Control Services
Alison Young	- Development Control Manager

248 APOLOGY

An apology for absence was submitted on behalf of Councillor A Burlton. It was noted that Councillor N Symonds was in attendance as substitute for Councillor A Burlton.

249 CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed the press and public to the meeting and those who were watching the live webcast.

The Chairman reminded Members of the planning tour of the District due to take place on 31 August 2012. Members should arrive at Wallfields at 8.30 am ready for the tour to start at 9 am.

The Chairman invited the Head of Planning and Building Control to brief the Committee in relating to requests from two applicants to brief Members in respect of significant proposals for development of the former Sainsburys Distribution Depot in Buntingford and in respect of Bishop's Stortford North. Following this, the Committee agreed, in principle, that Officers could formally arrange for both applicants and also any opposition groups to brief the Committee in respect of both sets of development proposals.

250 MINUTES

RESOLVED – that the Minutes of the meeting held on 18 July 2012 be confirmed as a correct record and signed by the Chairman.

251 3/12/0411/FP – SITE IMPROVEMENTS INVOLVING CONVERSION OF 67 EXISTING PITCHES INTO HARD STANDING, STANDARDISE 24 "L" SHAPED HARD STANDINGS, RESURFACE EXISTING CARAVAN STORAGE AREA AND RESURFACE EXISTING INTERNAL ACCESS ROAD AT THE CAMPING AND CARAVAN SITE, MANGROVE ROAD, HERTFORD FOR THE CAMPING AND CARAVANNING CLUB

The Director of Neighbourhood Services recommended that, in respect of application 3/12/0411/FP, planning permission be granted subject to the conditions detailed in the report now submitted, and with condition 7 amended as detailed in the Additional Representations Sheet.

After being put to the meeting and a vote taken, the Committee supported the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/12/0411/FP, planning permission be granted subject to the conditions detailed in the report and with the amended condition 7:

1. The development hereby permitted shall be carried out in accordance with the drainage details received on 25 July 2012 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure surface and foul water is treated appropriately to prevent pollution of groundwater in accordance with Policy ENV20 of the East Herts Local Plan Second Review April 2007.

252 3/11/2137/SV – MODIFICATION OF S.106 AGREEMENT IN RESPECT OF THE COMMERCIAL BUILDINGS APPROVED UNDER REF: 3/04/0657/OP BY THE REMOVAL OF A £125,000 HIGHWAYS CONTRIBUTION AT 95-97 LONDON ROAD, BISHOP'S STORTFORD, CM23 3DU FOR TANNERS WHARF LTD

Mr Richard Coke addressed the Committee in support of the application.

The Director of Neighbourhood Services recommended that, in respect of application 3/11/2137/SV, a variation of the Section 106 agreement pursuant to application 3/04/0657/OP, to remove the financial contribution detailed in the report be granted subject to the directive detailed in the report now submitted.

Councillor G Jones commented on sustainable transport infrastructure needs and the importance of section 106 contributions to meet these. As such, he was reluctant to

support the Officer's recommendation.

Councillor M Newman stated that, whilst approving this application to vary the Section 106 agreement might not provide the economic stimulus that resulted in this scheme being financially viable, any variation that provided a stimulus for a development to go ahead could only be a positive approach.

Councillor T Page commented that there had been no indication as to the length of the delay that could result in respect of this scheme should Members refuse to vary the Section 106 agreement, and urged Members to consider the additional burden for Council Taxpayers before approving the removal of the section 106 contribution.

Councillor N Symonds agreed with Councillors G Jones and T Page and advised that Bishop's Stortford Town Council had in fact objected to this application when it was first submitted.

In response to a query from Councillor M Alexander in respect of whether the £125,000 could be brought forward on a staged basis, the Director confirmed that Members could agree a number of variations to a Section 106 agreement and a staged or deferred payment arrangement was one such variation. Members were reminded that all parties to the Section 106 obligation would have to be in agreement with the applicant regarding any variation to this Section 106 obligation.

Councillor G Jones proposed and Councillor M Alexander seconded, a motion that application 3/11/2137/SV be deferred to enable Officers to negotiate with the applicant with regard to the potential for phased or staged payments of the current highways contribution.

After being put to the meeting and a vote taken, this motion was declared CARRIED. The Committee rejected the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of application 3/11/2137/SV, a variation of the Section 106 agreement be deferred to enable Officers to negotiate with the applicant with regard to the potential for phased or staged payments of the current highways contribution.

253 3/12/0076/FP – PART RETROSPECTIVE CONSENT FOR THE PROVISION OF OUTDOOR PLAY EQUIPMENT WITHIN THE EXISTING PUB GARDEN AND EXTERNAL ALTERATIONS TO PUB BUILDING INCLUDING AN OUTDOOR STORAGE BUILDING AT THE CATHERINE WHEEL, GRAVESEND, ALBURY, SG11 2LW FOR MR S HASLAM

Mr Salvatore Amico addressed the Committee against the application. Mr Steve Haslam spoke for the application.

The Director of Neighbourhood Services recommended that, in respect of application 3/12/0076/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

The Committee Chairman read out a statement on behalf of the local ward Member, Councillor M Tindale. Councillor M Tindale had stated his view that the applicant had met the concessions in height and scale and that the revised plans represented a more appropriate structure. Whilst acknowledging that some of the original objectors did not accord with his views, he had stressed that, given that Officers had recommended granting of the application before these amendments, and the fact that the Parish Council had not objected to either application, meant that this scheme should not be refused on issues pertaining to height and scale.

The Director stated that the Conservation Officer had commented that the reduced scale of the play equipment went towards overcoming previous concerns regarding the impact of the structure on the character and appearance of the wider setting.

The Conservation Officer had also recommended that the colour of the associated roofs serving the play equipment should be reconsidered in a dark green or grey or other suitable alternative colour and that the starkness of the existing boundary fences be addressed with the provision of planting.

Councillor S Bull expressed his satisfaction that Albury Parish Council was supportive of the application. He stated that noise resulting from children and young people playing was a fact of life and he would be supporting this retrospective application.

Councillor P Moore commented on the viability of local pubs that relied on fine dining to survive and did not have play areas in the garden.

Councillor G Jones stated that the key issue was whether the outdoor play equipment was inappropriate in this location. He commented that this issue should be weighed against the viability of the business. Councillor G Jones was concerned that the applicant had stated that the pub was barely breaking even, even though the play equipment was already installed.

Councillor T Page stated that the arguments against this application were thin and there did not seem to be a significant weight of objections aside from a small number of the immediate neighbours. He stressed that there was no evidence of harm and it was not for the Committee to inform the applicant how his business should be run.

Councillor Mrs R Cheswright expressed sympathy with the immediate neighbours. She commented on the expense and quality of the installed play equipment and shared the concerns of Councillor P Moore regarding retrospective applications.

Councillor M Newman commented that the changes made since the previous application should mitigate the noise concerns. He stated that the Conservation Officer's suggested use of colour should reduce the visual impact

the play equipment would blend into the surrounding landscape.

Councillor M Alexander reminded Members that the key issue was whether or not this application complied with policy GBC3 of the East Herts Local Plan Second Review April 2007, in terms of whether the impact of the play equipment was appropriate or inappropriate.

The Director stressed that the retrospective nature of the application should have no bearing on the decision and that the Committee should only consider the planning issues relevant to the application. The Director also advised against comparisons with other applications across the District which were likely to result from different circumstances.

Members were advised that the issue of business viability could be given some weight in that the play equipment would attract a family clientele which could enhance the viability of the pub. The Director stressed that the key issue however, was whether the benefit of the development outweighed the harm that was caused by virtue of inappropriate development in the rural area.

Councillor G Jones proposed and Councillor P Moore seconded, a motion that application 3/12/0076/FP be refused on the grounds that the proposed development constituted inappropriate development in the Rural Area and the visual impact of the play equipment and the noise and disturbance associated with its use would cause harm to the rural character of the site and its surroundings. The development was therefore contrary to policies GBC3, ENV1 and BH6 of the adopted East Herts Local Plan April 2007, and the National Planning Policy Framework.

After being put to the meeting and a vote taken, this motion was declared CARRIED.

The Committee rejected the recommendation of the Director of Neighbourhood Services as now submitted.

The Committee also authorised enforcement action on the basis now detailed.

RESOLVED – that (A) in respect of application 3/12/0076/FP, planning permission be refused for the following reason:

1. The proposed development constitutes inappropriate development in the Rural Area. The visual impact of the play equipment and the noise and disturbance associated with its use causes harm to the rural character of the site and its surroundings. The development is therefore contrary to policies GBC3, ENV1 and BH6 of the adopted East Herts Local Plan April 2007, and the National Planning Policy Framework.

(B) the Director of Neighbourhood Services, in consultation with the Director of Internal Services, be authorised to take enforcement action under section 172 of the Town and Country Planning Act 1990 and any such further steps as may be required to secure the removal of the existing unauthorised play equipment.

Period for compliance: 2 months

Reason: The proposed development constitutes inappropriate development in the Rural Area. The visual impact of the play equipment and the noise and disturbance associated with its use causes harm to the rural character of the site and its surroundings. The development is therefore contrary to policies GBC3, ENV1 and BH6 of the adopted East Herts Local Plan April 2007, and the National Planning Policy Framework.

254 E/11/0196/B – UNAUTHORISED REMOVAL OF TWO TRADITIONAL SHOP BLINDS WITH ASSOCIATED FITTINGS AND THE ERECTION OF TWO ADVERTISING CANOPIES TO A GRADE II LISTED BUILDING AT 31 - 33 BELL STREET, SAWBRIDGEWORTH, CM21 9AR

The Director of Neighbourhood Services recommended that, in respect of the sites relating to E/11/0196/B, enforcement action be authorised on the basis now detailed.

After being put to the meeting and a vote taken, the Committee accepted the Director's recommendation for enforcement action to be authorised in respect of the sites relating to E/11/0196/B on the basis now detailed.

RESOLVED – that in respect of E/11/0196/B, the Director of Neighbourhood Services, in conjunction with the Director of Internal Services, be authorised to take enforcement action on the basis now detailed.

255 PUBLIC SPEAKING ARRANGEMENTS FOR DEVELOPMENT CONTROL COMMITTEE ON 25 SEPTEMBER 2012

The Director of Neighbourhood Services submitted a report inviting Members to consider public speaking arrangements for the additional meeting of the Development Control Committee on 25 September 2012.

The Director advised that, as two applications were now due to be considered in the same meeting, Members should reconsider the public speaking arrangements previously agreed.

The Committee was advised that Officers had written the report on the basis that the original arrangements of 6 minutes with multiple speakers would be applied to both applications.

The Director advised that Officers felt, on further

consideration, that may be excessive and instead, objecting speakers should be permitted 10 minutes in total for all speakers with the applicant being offered the same total time. This arrangement would apply to both applications and multiple speakers would be expected to coordinate to share the time allowed if there was obvious duplication once the various speakers had submitted a summary of the points they wished to raise.

In response to concerns from Councillor T Page, the Chairman and the Director stressed that whilst these applications were significant, they were not considered to be uniquely so and many applications of a similar scale were dealt with within the normal speaking arrangements.

The Committee could retain the usual 3 minute rules on public speaking. The Committee was advised that enhanced arrangements took account of the recent public interest in the applications.

The Chairman commented that she had been contacted by a number of elderly residents and wheelchair users who wanted to attend the meeting.

Councillor S Bull proposed and Councillor M Alexander seconded, a motion that objecting speakers would be permitted 10 minutes in total with the applicant being offered the same total time. This arrangement would apply to both applications and all speakers would be expected to provide a summary of the points they wished to raise. If there was obvious duplication then multiple speakers would be expected to coordinate to share the time allowed.

After being put to the meeting and a vote taken, this motion was declared CARRIED.

The Committee supported the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that in respect of the meeting of the Committee due to be held on 25 September 2012,

the public speaking arrangements be approved as now detailed.

256 ITEMS FOR REPORTING AND NOTING

The Chairman advised that the public enquiry in respect of the Benington Wind Turbine would commence on 13 November 2012 for an expected duration of 3 days.

RESOLVED – that the following reports be noted:

- (A) Appeals against refusal of planning permission / non determination;
- (B) Planning Appeals lodged;
- (C) Planning Appeals: Inquiry and Informal Hearing dates; and
- (D) Planning Statistics.

The meeting closed at 8.04 pm

Chairman
Date

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MINUTES OF A MEETING OF THE
CORPORATE BUSINESS SCRUTINY
COMMITTEE HELD IN THE COUNCIL
CHAMBER, WALLFIELDS, HERTFORD ON
TUESDAY 21 AUGUST 2012, AT 7.00 PM

PRESENT: Councillor D Andrews (Chairman).
Councillors E Bedford, S Bull, K Crofton,
G Jones, W Mortimer, J Ranger,
G Williamson and M Wood.

ALSO PRESENT:

Councillors P Phillips, P Ruffles and
N Symonds.

OFFICERS IN ATTENDANCE:

Chris Cooper	- Information Manager
Marian Langley	- Scrutiny Officer
Alan Madin	- Director of Internal Services
Peter Mannings	- Democratic Services Officer
Ceri Pettit	- Corporate Planning and Performance Manager
George A Robertson	- Chief Executive and Director of Customer and Community Services

257 APOLOGIES

Apologies for absence were submitted on behalf of Councillors J Mayes, T Page, M Pope and J Wing. It was noted that Councillors S Bull, K Crofton and M Wood were substituting for Councillors T Page, J Mayes and J Wing respectively.

258 MINUTES - 17 JULY 2012

RESOLVED – that the Minutes of the meeting held on 17 July 2012 be confirmed as a correct record and signed by the Chairman.

259 FREEDOM OF INFORMATION

The Head of Customer Services submitted a report detailing a summary of the Freedom of Information (FOI) requests received by the Council and also providing an indication of the costs of managing them.

The Information Manager advised Members that this report followed the update that was submitted in May 2011. Members were referred to the Essential Reference Papers for an overview of the current situation regarding FOI requests.

Members were advised that the most FOI requests related to a number of sections, these being Human Resources, Contract Services, Democratic and Legal Support Services, Accountancy and Revenues and Benefits.

The Information Manager advised that the Authority had 20 days to respond to an FOI request and the Council had no authority to enquire as to the capacity of the person making the request or their reasons for seeking the information.

Members were further advised that a new system had gone live in June 2012 for the management of FOI requests. Officers hoped that the average cost of managing each request would fall to £26.56 resulting in total efficiency savings of £11,000 in handling FOI requests.

The Chairman reminded Members that the Authority was obliged to disclose any information that was held in respect of any aspect of Council business subject to

compliance with the Data Protection Act. In response to a query from Councillor M Wood, Members were advised that a name and address was required from the person making the request. The Authority was not permitted however, to seek a business name or seek to ascertain the place of work for the person making the request.

The Information Manager gave a short presentation detailing an overview of how the new FOI system worked. Members were advised that many aspects of the system were automated and saved Officers time when overseeing the management of FOI requests.

In response to a query from Councillor J Ranger, Members were advised that the number of FOI requests was increasing year on year and the actual time spent per request was reducing due to the new system. In response to a query from Councillor G Jones, Members were advised that there were no particular peak periods for FOI requests in a typical year.

Members received the report.

RESOLVED – that the report be received.

260 CORPORATE ANNUAL REPORT 2011/12

The Chief Executive and Director of Customer and Community Services submitted a report providing Members with an initial draft of the Council's Annual Report for 2011/12.

Members were advised that the Annual Report documented key achievements against each of the corporate priorities over the last financial year. The report also contained financial information which provided an overview of the council's financial position for the year in question. There would be further minor changes to the working draft of the report before it was reported to the Executive on 4 September 2012.

In response to a query from Councillor S Bull regarding

Housing Benefit, the Director of Internal Services stated the Council's performance was broadly in line with other Local Authorities.

Councillors G Jones and M Wood stated that the profile of the District in the Annual Report appeared to focus more on the rural areas, whereas the majority of the East Herts population was concentrated in the 5 main towns. They commented on whether the report should be amended to reflect this.

The Committee received the report.

RESOLVED – that the 2011/12 Annual Report be recommended to the Executive for approval.

261 CORPORATE STRATEGIC PLAN 2013/14 - 2016/17

The Chief Executive and Director of Customer and Community Services submitted a report presenting a draft of the Council's Corporate Strategic Plan which outlined the Council's priorities for the next four years and the key outcomes it hoped to achieve. The report also highlighted the high level priorities and identified the key outcomes that will be achieved.

Members were advised that the report set out the developing roles of the Authority in ensuring good services were delivered whilst also acting as an enabler when working with other organisations, such as the Local Strategic Partnership.

Councillor J Ranger commented that the wording of the Council's vision on page 58 of Essential Reference Paper 'B' might be revised to include the words 'best' or 'effectively' when referring to the Council's use of staff resources. The Chief Executive and Director of Customer and Community Services asked Members to e-mail Officers with any further comments in respect of the Corporate Strategic Plan.

The Committee received the report.

RESOLVED – that the Corporate Strategic Plan for 2013/14 to 2016/17 be recommended to the Executive for approval.

262 MEDIUM TERM FINANCIAL STRATEGY (2013/14 TO 2016/17)

The Executive Member for Finance submitted a report inviting Members of the Corporate Business Scrutiny Committee to consider revisions to the Financial Strategy including policy on reserves and the proposed planning assumptions to be used to update the Medium Term Financial Plan and to make recommendations to the Executive.

The Director of Internal Services referred to this report being the prelude to the annual budget round. Members were advised that, due to the added level of complexity of this report, it had been broken up into 4 parts.

Introducing Part 1, The Director of Internal Services reminded Members that the number of benefit claimants was increasing although the rate of increase was falling. He also stated that the risk of increasing entitlement to council tax discount would be shared by East Herts, the County Council and the Police Authority pro rata to each Authority's rate of council tax.

Members were advised that the cost of benefits to be awarded by East Herts in 2012/13 was estimated at £7m, which would reduce to an estimated £6.65m on implementation of the new scheme of council tax discounts. Members were reminded that an allowance would need to be made for some growth in numbers becoming entitled to the new discount.

The Director of Internal Services advised that, for 2013/14, the latest estimate was that the discount scheme would reduce council tax income to East Herts by £733k, which would be offset by a government grant of £675k. Members were advised that each 1% increase in

the cost of discounts above the estimate would cost £7.3k and would not be offset by a grant increase.

The Director of Internal Services further advised that although the business rate retention scheme was starting from 1 April 2013, this did not mean that East Herts Council would be setting business rates. The portion of the rate collected by the Government would be returned to the Authority and there was no risk to East Herts Council in respect of this scheme.

Councillor J Ranger commented on whether the Government's estimate in respect of business rate income was in line with East Herts Council's estimate. The Director advised that until the 2013/14 accounts were closed in June 2014, the Authority would not know whether actual business rate income and the amount retained matched the estimate, although in-year monitoring would alert Officers to significant variations.

Under Part 2, Members were advised that the Financial Strategy and the Medium Term Financial Plan (MTFP) had a 5 year focus and Officers had made reasonable assumptions in terms of expected income and costs.

The Director of Internal Services stressed that it might be appropriate to put the next 5 years into the context of longer term trends given suggestions that austerity might last until 2020. Members were referred to paragraph 3.4 of the report for the most significant service drivers and cost pressures in the period up to 2019/20. Members urged caution when considering any period beyond the 5 year timescale as future changes were too uncertain to be used for any detailed planning.

The Director of Internal Services reminded Members that the Government always took a view on levels of local government spending, in respect of the national spending control for 2013/14. A reduction of Revenue Support Grant by the Government would continue to exert considerable pressure at the aggregate level on Local Authority spending even if Authorities had increased

business rate income.

The Director of Internal Services advised that all other assumptions detailed in Parts 3 and 4 of the MTFP strategy were included on the basis that all identified savings would be delivered. The MTFP also assumed a 0% Council Tax rise in 2013/14, with the potential for increases after that time. Councillor J Ranger sought and was given clarification in respect of future grants to Local Authorities.

The Committee received the report.

RESOLVED – that (A) the proposed financial strategy be recommended to the Executive for approval;

(B) the Executive be requested to be very cautious about adopting a longer planning period;

(C) the planning assumptions detailed in this report be recommended to the Executive for adoption in framing the 2013/14 budget and Medium Term Financial Plan to 2016/17; and

(D) the Executive's attention be drawn towards the increased risk factors in respect of the 2013/14 budget and Medium Term Financial Plan to 2016/17.

263 ANNUAL GOVERNANCE STATEMENT 2011/12

The Leader of the Council submitted a report presenting the 2011/12 Annual Governance Statement and the 2012/13 Annual Governance Statement Action Plan. The supplementary agenda showed the version of the Annual Governance Statement with tracked changes detailing the changes made to the wording of the current document.

Members were advised that, as part of the Council's drive to increase the transparency of its spending, the Authority published all payments on a weekly basis as opposed to

the Government's expectation that spending over £500 was disclosed. This limit had recently come down to £250.

The Director of Internal Services advised that the first 4 issues detailed in the Annual Governance Statement Action Plan for 2012/13 had been carried over from last year and there were 5 additional issues that had been added to the Action Plan.

Councillor J Ranger commented that the wording in respect of the appointment of the Leader and Executive Members should be reworded in the Annual Governance Statement detailed at Essential Reference Paper 'B'.

The Committee received the report.

RESOLVED – the comments on the proposed Annual Governance Statement and Action Plan be passed to the Audit Committee.

264 COUNCIL TAX SUPPORT

The Executive Member for Finance submitted a report inviting Members of the Corporate Business Scrutiny Committee to comment on the draft scheme of Council Tax Support.

The Director of Internal Services advised that the Executive was seeking Members' views on a scheme of Council Tax support to replace Council Tax benefits from 1 April 2013. Members were referred to Essential Reference Paper 'C' for a template for consultation regarding the proposed changes and those who were most likely to be affected.

The Director of Internal Services stated that if the Authority did nothing and kept the rules the same for everybody then council tax payers in general would see a £700,000 increase in their tax bill because East Herts, the County Council and the Police Authority would be forced to put up the rate of Council Tax if other services were not

to be reduced.

Members were reminded that the Government wanted to see a 10% reduction in spending on support for Council Tax and was therefore contributing only 90% of the existing cost towards the new scheme. The Director of Internal Services reminded Members that East Herts Council was committed to not increasing the Council Tax and would therefore need to change the rules for working age claimants.

In response to a number of queries from Councillor N Symonds, the Director confirmed that the benefits system would still support claimants as now but, under the proposed scheme, the maximum grant anyone of working age could get would meet 90% of the cost of the council tax relevant to their particular 'band' of home.

Councillor G Jones stressed the importance of writing to all benefits claimants to articulate what the changes would mean in respect of Council Tax support.

In response to a comment from Councillor D Andrews, the Committee requested that Members be kept informed regarding the timing of any letters that were sent to residents. The Committee agreed that there should be an article in Link magazine as well as wider consultation in respect of the draft scheme of Council Tax support.

The Director of Internal Services acknowledged the extreme sensitivity of the letter that would be sent to recipients of Council Tax benefit and stressed that such a letter would only be signed off at the very highest level of the Authority.

The Committee received the report.

RESOLVED – that the Executive be advised that:

(A) if there were any changes in respect of the draft scheme for Council Tax Support, considerable care should be taken regarding the consultation letter sent to current benefit claimants

and it was essential that the letter should include a number of illustrative examples;

(B) Members be informed of the nature of the letter and the date for when they were due to be sent to current benefit claimants; and

(C) Corporate Business Scrutiny Committee supports the inclusion of an article in Link magazine as well as wider consultation in respect of the draft scheme of Council Tax support.

265 MONTHLY CORPORATE HEALTH CHECK - APRIL TO JUNE 2012

The Leader of the Council submitted an exception report on finance and performance monitoring for the period April to June 2012.

The Director of Internal Services reported that, subject to all other budgets being equal, the figures indicated there could be an overspend of £67,000. Members were advised however, that a positive variance was likely on investment returns with a number of additional fixed term deposits due to be placed which would bring income ahead of the budget. This would be reflected in the next Healthcheck report.

In respect of NI 181, time taken to process Housing Benefit/Council Tax Benefit new claims and change events, the Director of Internal Services stated that performance was 23.56 days and the Authority would address this by utilising specialist agency staff and a bulk contract for processing claims.

In response to a query from Councillor N Symonds, the Director stressed that the agency staff would already be fully trained in processing claims so would not be a distraction for existing Council Officers in training new staff.

Members were advised that a bulk processing contract or

contracts would be issued to 1 or more of the specialist agencies once a quote had been received from the final agency. Members were urged to be patient as Officers took steps to improve performance.

Members received the report.

RESOLVED – that the report be received.

266 SCRUTINY WORK PROGRAMME

The Chairman submitted a report setting out the Committee’s future work programme for 2012/13, the detail of which was set out in Essential Reference Paper “B” to the report now submitted.

The Scrutiny Officer advised that, as the Communications Strategy had only recently been adopted, there would be little for Corporate Business Scrutiny Members to scrutinise in relation to their action plan at the 2 October 2012 meeting of the Committee. Members agreed that, as this was the only substantive item scheduled for that agenda, the Corporate Business Scrutiny meeting scheduled for 2 October 2012 would be cancelled unless there were any urgent items.

Members approved the Work Programme, as amended.

RESOLVED – that (A) the Work Programme as amended, be approved; and

(B) unless there were any urgent items, the 2 October 2012 meeting of the Corporate Business Scrutiny Committee be cancelled.

The meeting closed at 9.42 pm

Chairman
Date

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MINUTES OF A MEETING OF THE
COMMUNITY SCRUTINY COMMITTEE
HELD IN THE COUNCIL CHAMBER,
WALLFIELDS, HERTFORD ON TUESDAY
28 AUGUST 2012, AT 7.00 PM

PRESENT: Councillor G McAndrew (Chairman)
Councillors R Beeching, T Herbert,
Mrs D Hollebon, C Rowley, N Symonds, M
Wood and C Woodward

ALSO PRESENT:

Councillors L Haysey and P Ruffles

OFFICERS IN ATTENDANCE:

Claire Bennett	- Manager of Housing Services
Lorraine Blackburn	- Democratic Services Officer
Marian Langley	- Scrutiny Officer
Marianne McWhinnie	- Engagement and Partnership Officer
Paul Newman	- Licensing Manager
Will O'Neill	- Head of Communications, Engagement and Cultural Services
Emma Parlow	- Marketing and Audience Development Manager
Mekhola Ray	- Community Projects Team Manager
George A Robertson	- Chief Executive and Director of Customer and Community Services
Brian Simmonds	- Head of

Rhys Thomas

Community Safety
and Health
Services
- Arts and
Entertainment
Programme
Director

267 APOLOGIES

Apologies for absence were submitted from Councillors S Bull and Mrs D Hone. It was noted that Councillor C Rowley was substituting for Councillor S Bull.

268 MINUTES

RESOLVED – that the Minutes of the meeting held on 12 June 2012, be confirmed as a correct record and signed by the Chairman.

269 HEALTH ENGAGEMENT PANEL

Councillor N Symonds, Chairman of the Health Engagement Panel, provided a summary of the recent work the Panel,

The Committee received the report and noted the Minutes.

RESOLVED – that (A) the report be received; and

(B) the Minutes of the Panel meeting held on 19 June 2012, be noted.

270 HEALTH ENGAGEMENT PANEL: PROPOSED CHANGE OF NAME

Councillor N Symonds, the Chairman of Health, Engagement Panel submitted a report outlining a proposed name change for the Health Engagement Panel to one which would reflect the changing focus of its priorities and in order to reflect local and national health agendas and priorities. Councillor L Haysey, Executive Member for Health, Housing and

Community Support stated that a newly named “Health and Wellbeing Panel” would provide a broader basis on which to continue to develop the ongoing and strong work of the Panel.

The Committee supported the proposal to change the Panel’s name to the “Health and Wellbeing Panel”.

RESOLVED – that with immediate effect, the Health and Engagement Panel be renamed the “Health and Wellbeing Panel”.

271 EAST HERTS "AGEING WELL" - REVIEW OF PROGRESS

The Executive Member for Health, Housing and Community Support submitted a report updating Members on the progress of the East Herts Ageing Well agenda following recommendations made by Community Scrutiny Committee on 28 February 2012, the detail of which was set out in the report now submitted. The Engagement and Partnerships Team Leader summarised the recommendations and role of the Council in engaging with older people. It was noted that from research already undertaken by Members on the Working Group, there were 148 groups providing a range of services to older people, which the Council could use as the foundation of a database for future engagement and consultation.

In response to a query from Councillor G McAndrew and what steps the Council was taking to include the rural community, Councillor L Haysey explained that there would be an Ageing Well item on the Rural Conference agenda.

In response to a query from Councillor C Woodward regarding encouraging businesses to be “older people friendly”, the Chief Executive and Director of Customer and Community Services reminded Members that there were now no work age limitations in terms of economic activity.

The Chairman referred to the positive progress made in relation to age and well being and how this was becoming embedded within the community.

The Committee noted the progress made against the recommendations made at its meeting held on 28 February 2012, and agreed that the Executive be asked to support the ambitions set out in paragraph 2.9 of the report now submitted and that these be integrated into the strategic policy making of the Council, via the Equalities Impact Assessment.

RESOLVED – that (A) the progress made against the three recommendations made at the meeting of Community Scrutiny Committee held on 28 February 2012 be noted; and

(B) the Executive be requested to support the ambitions as detailed in paragraph 2.9 of the report now submitted, and that these be integrated into the strategic policy making of the Council, via the Equalities Impact Assessment.

272 HERTFORD THEATRE - ANNUAL REPORT 2011/12

The Executive Member for Health, Housing and Community Support submitted a report which provided an annual review of Hertford Theatre for the year 2011/12. The Head of Communications, Engagement and Cultural Services referred to the success of the Theatre and summarised the highlights of its first full year of trading from April 2011 to the end of March 2012, the detail of which was set out in the report now submitted.

Councillor M Wood agreed that the report was a “good news” story but expressed concern regarding the deficit in relation to the Pantomime and sought assurances that this was being properly marketed. He referred to the total outturn and expenditure figures for 2011/12 and the net difference shown. The Head of Communications Engagement and Cultural Services stated that the Theatre was running ahead of its target in the ten-year Business Plan and over-performing against payback timeframes. He reminded Members of the Theatre’s new vision statement and that a new governance arrangement would be reviewed in a year’s time following a review of best practice. The Head of Communications, Engagement and Cultural Services advised Members that the

pantomime marketing budget was ring fenced.

In response to a query regarding apprenticeships by Councillor G McAndrew, the Head of Communications, Engagement and Cultural Services advised that this had been very successful and it was hoped that the skills of the technical apprentice could be retained in-house. The Theatre Director stated that he was keen on progressing apprenticeship schemes and referred to the successful use of the Theatre's 76 volunteers.

In response to a query regarding sharing acts with The Rhodes Arts Complex by Councillor G McAndrew, the Director of Hertford Theatre advised that both theatres were in constant dialogue on this issue adding that one such project would be the introduction of the Art Bus in October 2012.

In response to a query regarding the database of schools, and the Theatre becoming involved in GCSE and A-Level syllabi in terms of performances, the Director of Hertford Theatre advised that there were ongoing efforts to work with schools to co-ordinate on the curriculum.

In relation to marketing, the Marketing and Audience Development Manager provided a summary of the Theatre's "reach", its Facebook and Twitter activity, the emailing list, press database and ongoing work with schools and how this compared with the former Castle Hall.

The Chief Executive and Director of Customer and Community Services referred to the team's efforts which had contributed to the success of Hertford Theatre over the last 18 months. He stated that the Theatre was a challenging business to run and referred to the many issues which had been overcome.

The Chairman, on behalf of Members thanked the Officers for their hard work in contributing to the success story.

The Committee noted the Annual Report on Hertford Theatre 2011/12 and thanked Officers for their hard work.

RESOLVED – that (A) the report be noted; and

(B) Members' thanks to Officers and the staff team at the Theatre for their hard work be recorded.

273 REVIEW OF TAXI LICENSING IN EAST HERTS - INITIAL REPORT AND SCOPE

The Chairman of the Task and finish group submitted a report summarising the first stages of a review of Taxi Licensing in East Herts, the detail of which, was set out in the report now submitted.

In response to a query regarding consultation processes, the Head of Community Safety and Health Services stated that there was an active Taxi Driver Association which would be contacted and any independent taxi drivers would also be invited to future meetings.

In response to a query concerning "fly parking", the Head of Community Safety and Health Services stated that this was an issue which the Council would be reviewing.

The Committee noted the report and agreed the scope of the review.

RESOLVED – that (A) the scoping document for the review of Taxi Licensing in East Herts be agreed; and

(B) the Task and Finish Group report back to Community Scrutiny Committee in November, 2012.

274 HOUSING STRATEGY ACTION PLAN 2012 - 2015

The Executive Member for Health, Housing and Community Support Community submitted a report setting out the action plan for the Council's new Housing Strategy for 2012/15, the detail of which was set out in the report now submitted. The Housing Services Manager referred Members to Essential Reference Paper "B" of the report now submitted, which set out the three key responsibilities for Housing Associations in relation to the Housing Strategy.

Councillor C Woodward referred to Objective 3 (Meeting the needs of vulnerable people and stronger communities) and suggested that the Council needed to impart a stronger emphasis on this issue, particularly in relation to the needs of the Armed Forces. The Housing Services Manager stated that the Council was aware of the needs of Armed Forces personnel and was doing all it could. Officers would continue to use their discretion in this capacity. She explained that without the force of legislation, the Council's role was limited.

Councillor G McAndrew empathised with personnel who left the force and were suddenly faced with the need to find a home, a job, doctors and schools. He stated that anything the Council could do to make things easier for Armed Forces personnel should be done. The Housing Services Manager added that the Forces' own housing advice was very good.

The Committee supported the Housing Strategy 2012/15 and Action Plan and requested that the Executive be asked to support the Action Plan alongside the main Housing Strategy document. Members also agreed that they be provided with an Annual Report on the progress of the Action Plan each September, or on whatever date was considered most expeditious.

RESOLVED – that (A) the Housing Strategy 2012/15 and Action Plan be supported together with Members' comments and the Executive be asked to support the Action Plan alongside the main Housing Strategy document; and

(B) Community Scrutiny Committee be provided with an Annual Report on the progress of the Action Plan each September, or on whatever date was considered to be most expeditious.

275 ANNUAL PERFORMANCE REPORT FOR RIVERSMEAD AND SOUTH ANGLIA HOUSING ASSOCIATIONS 2011/12

The Executive Member for Health, Housing and Community Support submitted a report on the progress made on the two

large scale voluntary transfer housing associations and the three undertakings which remained following the end of the Delivery of Promises Programme in 2007.

The Housing Services Manager expressed concern that there had been a lot of enquiries in relation to Right to Buy but virtually no sales, which was considered to be attributable to the cost of properties in the East Hertfordshire District. The Housing Services Manager also expressed concern at the slow down by the County Council, in processing requests for adaptations. She referred to recent re-structure at the County Council which had had a knock on effect.

Councillor C Woodward commented on the number of complaints he and other Councillors had received in relation to garages, their condition and lack of maintenance. He stated that Housing Associations should be requested to maintain them.

Councillor N Symonds referred to the slow down in processing requests for adaptations suggesting that this was possibly attributable to the shortage of Occupational Therapists available to carry out the formal assessment of need.

Councillor P Ruffles commented on the improvements over the last 10 years in terms of engagement with Housing Associations. He stated that the west of the District did not suffer to the same level in terms of garage issues. Members commented generally on the good rapport that existed with Housing Associations.

In response to a query from Councillor G McAndrew regarding under and over occupancy, the Housing Services Manager explained the "swap" procedure and the incentives on offer. She also referred to "Bedroom Tax" which would be introduced from October 2012.

Councillor M Wood suggested that in considering the issue of garages, there was a need to balance matters, adding that garages were an issue when the Council had responsibility for them.

The Committee noted the performance of Riversmead and South Anglia Housing Associations on the three remaining stock transfer undertakings for the year 2011/12 and asked Officers to pass on Members' concerns regarding the general maintenance of garages.

RESOLVED – that (A) the performance of Riversmead and South Anglia Housing Associations on the three remaining stock transfer undertakings for the year 2011/12 be noted; and

(B) Officers be requested to pass on Members' concerns regarding the general maintenance of garages.

276 COMMUNITY SCRUTINY CORPORATE HEALTHCHECK
(APRIL - JUNE 2012)

The Chief Executive and Director of Customer and Community Services submitted a report on the performance of key indicators relating to Community Scrutiny Committee for the period April - June 2012.

Councillor N Symonds thanked Officers for taking the issue of housing benefits seriously.

The Committee received the report.

RESOLVED – that (A) the performance for the period April to June 2012 be noted.

277 WORK PROGRAMME

The Scrutiny Officer submitted a report outlining the future work of the Community Scrutiny Committee. She stated that the Annual Equalities Report should be deleted from the work programme and that a statement would be put in the Members' Information Bulletin. It was noted that in relation to an item proposed for March 2013 on the issue of "Crime and Disorder", Members would be advised of topical issues by the Head of Community Safety and Health Services, closer to the date of the Committee from which they could make a choice.

The Committee supported the updates.

RESOLVED – that the work programme, as amended,
be approved.

The meeting closed at 8.15 pm

Chairman
Date

EAST HERTS COUNCIL

COUNCIL- 26 SEPTEMBER

REPORT BY THE PORTFOLIO HOLDER FOR RESOURCES AND INTERNAL SUPPORT – COUNCILLOR M TINDALE

APPOINTMENT OF SECTION 151 OFFICER

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

- To appoint the Section 151 Officer.

<u>RECOMMENDATIONS FOR COUNCIL:</u> That:	
(A)	Simon Chancellor be appointed as the Council's Section 151 Officer with immediate effect until the Director of Finance and Support Services takes up her post
(B)	Adele Taylor be appointed as the Council's Section 151 Officer from 19 November 2012

1.0 Background

1.1 The Council is required to appoint formally the statutory position of the Chief Financial Officer (Section 151 Officer) under Section 151 of the Local Government Act 1972. Alan Madin, the officer who currently fulfils this role is retiring at the end of September 2012. This report seeks to establish appropriate interim and future arrangements to meet the Council's statutory requirements in regard to Section 151 of the Local Government Act 1972

2.0 Report

2.1 Council is invited to consider the appointment to the Chief Financial Officer (Section 151 Officer) post.

- 2.2 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 Finance 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 and
 - leading and managing an effective and responsive financial service.
- 2.3 Simon Chancellor is the council's Head of Finance and Performance and has agreed to fulfil the Section 151 role for the interim period.
- 2.4 Adele Taylor has been appointed Director of Finance and Support Services (which includes the role of Section 151 Officer) and will take up her post on 19th November 2012.
- 2.5 Both Simon Chancellor and Adele Taylor have considerable relevant expertise, experience and the appropriate qualifications to fulfil the role of the council's Section 151 officer.

3.0 Implications/Consultations

- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

Local Government Act 1972, Local Government and Finance Act 1988 and the Chief Finance Officer Protocol

Contact Member: Executive Member for Resources & Internal Support – Cllr Michael Tindale
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Contact Officer: Chief Executive and Director of Customer and
Community Services – George A Robertson
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george.a.robertson@eastherts.gov.uk

ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i>	N/A
Consultation:	The Council's External Auditors have been consulted.
Legal:	It is a Council function to appoint the Council's statutory officers.
Financial:	The Section 151 officer is responsible for the sound administration of the Council's financial affairs.
Human Resource:	None
Risk Management:	The Council is required by statute to make these appointments.

EAST HERTS COUNCIL

COUNCIL – 26 SEPTEMBER 2012

REPORT BY THE LEADER OF THE COUNCIL

IMPLICATIONS OF THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

The purpose of this report is to outline the new provisions introduced by the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and to seek Members' views on proposed amendments to current practice and the constitution.

RECOMMENDATIONS FOR COUNCIL That:

(A)	Council notes the implications of the new Regulations; and
(B)	the proposed amendments to current practice be approved and the monitoring officer be authorised to make appropriate changes to the constitution.

1.0 Background

1.1 The Regulations were made on 10 August 2012 and came into force on 10 September 2012. The new Regulations revoke the current Regulations which govern meetings of the Executive and how Executive decisions are recorded.

2.0 Report

2.1 **Meetings of the Executive**

2.2 The previous Regulations required that any meeting of the Executive where a key decision was to be made must be held in public. The new Regulations establish a presumption that all Executive meetings (and meetings of Executive committees) will be held in public, unless certain circumstances apply. Whilst the

meeting is open to the public, any person attending the meeting for the purpose of reporting the proceedings is, so far as practicable, to be afforded reasonable facilities for taking their report. However, as before, this does not mean that the authority must permit photographs, video or audio recordings of the meeting, or an oral report of the proceedings as they take place.

2.3 It is still up to the Executive to decide which of its meetings, and which of the meetings of any committee of the Executive, are to be open to the public and which of those meetings are to be held in private. The regulations prescribe the procedures which must be followed before the Executive or one of its committees holds a meeting in private, including allowing the public to make representations about why the meeting should be open to the public. This is unlikely to be an issue for East Herts Council as since the adoption of executive arrangements, the approach has been for decision making meetings of the Executive to be held in public.

2.4 **Key decisions**

2.5 The definition of a key decision provided in the regulations remains the same. The regulations state that a decision is a key decision if it is significant in terms of its effects on communities living or working in an area comprising two or more wards.

2.6 **Forward Plan**

2.7 The Council is no longer required to produce and publish a Forward Plan detailing the key decisions to be taken during a four month period. Instead the new regulations state that where a decision maker intends to make a key decision, that decision must not be made until a document has been published at least 28 clear days beforehand. This document must be made available for inspection by the public at the Council's offices and on the website.

2.8 The notice of a key decision must contain additional information relating to the documents submitted to the decision maker for consideration, where the public can access the documents, and the procedure for requesting any other documents to be considered as they become available. The requirements to detail information about the consultation process that will be used and to identify the groups that would be consulted on the decision have been removed.

- 2.9 It is recommended that the Council publishes pending key decisions on a monthly basis, a month in advance. The new regulations also provide an opportunity for the plan to be updated in real time.
- 2.10 This has the advantage of being similar to the current process for producing the Forward Plan and does not require a new facility for such a list to be produced and managed through the Council's website.
- 2.11 Where it is not possible for an officer to comply with the notification requirements it is still possible to rely on the provisions of 'general exception' or 'special urgency'. The rules regarding general exception are broadly the same, although the regulations now state that as soon as reasonably practicable the proper officer must make available at the Council offices a notice setting out the reasons why compliance with the 28 days notification period is impracticable and that notice must be published on the Council's website.
- 2.12 In relation to cases of special urgency, there is now a requirement that as soon as reasonable practicable after the decision maker has obtained agreement that the making of the decision is urgent and cannot reasonably be deferred, the decision maker (rather than the proper officer) must make available at the offices of the Council a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred and that notice must be published on the Council's website.
- 2.13 **Procedures prior to Executive meetings where the public may be excluded**
- 2.14 New provisions now apply prior to any meeting of the Executive (and its Committees) where the public are to be excluded due to disclosure of confidential or exempt information. 28 days before the meeting notice of the intention to hold the meeting in private must be published giving reasons. Even if there is ultimately no private session of the meeting, it will be necessary to publish the notice where there are exempt parts of a report, as it might be necessary for the Executive to go in to private session to discuss the exempt appendix.
- 2.15 Further notice of the intention to hold the meeting in private must then be published 5 clear days before the meeting, setting out any

representations received about why the meeting should be open to the public and the response of the Executive to these.

2.16 Where it is not possible to meet the timescales for publication of these new notices the meeting may only proceed and the decision be taken if the relevant Overview and Scrutiny Chairman has agreed that the meeting is urgent and cannot reasonably be deferred. A notice to this effect must then be published.

2.17 **Cases of special urgency**

2.18 These provisions remain the same except in future a notice must be published by the decision-maker where special urgency procedures have been invoked setting out the reasons for urgency and why the meeting could not be reasonably deferred. The regulations provide choice for the Council in terms of the timescales within which the Leader must report any Executive decisions taken under the urgency provisions to Full Council as long as this is done at least once a year.

2.19 **Inspection of background papers**

2.20 There is now a requirement for the list of background papers in Executive reports and at least one copy of each document listed to be available for public inspection at the Council's Offices and on the Council's website. This represents a departure from current working arrangements. In future a web link will need to be provided to these documents in Executive reports and where this is not possible an electronic copy of the document provided to Democratic Services for publication on the Council's website.

2.21 **Additional rights of access to documents for Members**

2.22 The regulations strengthen the rights of Members to access to information relating to business to be discussed at a public meeting of the Executive, or business transacted at a private meeting, or decisions made by Portfolio Holders and officers under Executive arrangements. Members must be able to inspect any report or background paper to be discussed at least five clear days before a public meeting is held or from the time the meeting is convened if this is less than 5 clear days ahead (previously there was no 5 day rule). In the case of an Executive meeting where there is a closed session or for Executive decisions taken by a Portfolio Holder or officer, reports and background papers must be available for inspection by any Member of the Council, on

request within 24 hours. These changes are somewhat academic at East Herts Council as the usual practice is for key decisions to only be taken by the Executive and for full copies of all Executive agendas and records of decisions to be provided.

2.23 **Additional rights of access to documents for Members of Overview and Scrutiny Committees**

2.24 The rights of Members of Overview and Scrutiny Committees have been strengthened by the regulations which now stipulate a 10 day deadline for responding to any request for a report or background paper that contains material relating to an Executive decision or a decision taken by a Portfolio Holder or officer under Executive arrangements.

2.25 If the Executive denies a request for information under this regulation there is a new requirement for the reason for the refusal has to be reported to the relevant Overview and Scrutiny Committee.

2.26 **Amendments to the Constitution**

2.27 The new regulations require changes in process and procedure as well as requiring changes to the constitution. The proposed changes are set out in **Essential Reference Paper 'B'**.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

Localism Act 2011

Contact Member: Councillor Tony Jackson- Leader of the Council
tony.jackson@eastherts.gov.uk

Contact Officer: Simon Drinkwater- Director of Neighbourhood Services
01992 531405

Report Author: Simon Drinkwater- Director of Neighbourhood Services
simon.drinkwater@eastherts.gov.uk

ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i>	People This priority focuses on enhancing the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.
Consultation:	There has not been any consultation.
Legal:	Legal implications are in the report.
Financial:	No direct financial implications identified.
Human Resource:	None
Risk Management:	The Council needs to comply with the regulations to ensure that decisions are correctly made and recorded.

Summary and Explanation

1.0 The Council's Constitution

- 1.1 East Herts Council has agreed a new 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 The Constitution is divided into 15 articles 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 at the end of the document.

2.0 What's in the Constitution?

- 2.1 Article 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. Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:
- Members of the Council (Article 2)
 - Citizens and the Council (Article 3)
 - The Council meeting (Article 4)
 - Chairing the Council (Article 5)
 - Scrutiny of decisions (Article 6)
 - The Executive (Article 7)

- Regulatory and other committees (Article 8)
- The Standards Committee (Article 9)
- Joint arrangements (Article 10)
- Officers (Article 11)
- Decision making (Article 12)
- Finance, contracts and legal matters (Article 13)
- Review and revision of the Constitution (Article 14)
- Suspension, interpretation and publication of the Constitution (Article 15)

3.0 How the Council operates

- 3.1 The Council is composed of 50 councillors elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors 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 Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the code of conduct.
- 3.3 All councillors 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, councillors 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 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 and Deputy Leader, who are appointed by the Council, and an Executive of 4 Councillors whom the Leader appoints. 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 Development Control Decisions

- 5.1 These decisions cannot, by law, be taken by the Executive. A committee of Councillors meets in public to decide on planning applications. They have detailed reports from officers, comments from consultees such as neighbours and parish councils and legal advice. If planning consent is refused, the applicant can appeal to the Planning Inspectorate which may overturn the Council's decision.

6.0 Scrutiny

- 6.1 There are three scrutiny committees who support the work of the Executive and the Council as a whole. They allow citizens 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.

- 6.2 The committee may recommend that the Executive reconsiders the decision. They may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

7.0 The Council's Staff

- 7.1 The Council has people working for it (called '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.

8.0 Citizens' Rights

- 8.1 Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 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.

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

- 8.3 Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution on payment of a reasonable fee;
- attend meetings of the Council and its committees except where, for example, exempt or confidential

matters are being discussed;

- petition to request a referendum on a mayoral form of executive;
- participate in the Council's question time and contribute to investigations by the scrutiny committees;
- find out, from the Executive's publicity, what major decisions are to be discussed by the executive or decided by the executive or officers, and when;
- attend meetings of the Executive where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council and Executive;
- complain to the Council about its functions and services;
- 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;
- complain to the Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

8.4 The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Head of Democratic and Legal Support Services at Wallfields, Pegs Lane, Hertford, Hertfordshire, SG13 8EQ (tel: 01279 655261 ext 2170, 'e'-mail: jeff.hughes@eastherts.gov.uk).

9.0 Admission to meetings

- 9.1 All meetings of the Council, its executive, scrutiny committees, committees, sub-committees and panels are open to the public.
- 9.2 There may be occasions when “confidential” information is to be discussed at a meeting. On such occasion, 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.
- 9.3 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.
- 9.4 When meetings are convened at short notice and the “five day rule” cannot apply, papers must be available from the time a meeting is convened.
- 9.5 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.
- 9.6 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 Framework	The revenue and capital budget in any one year.
Call-in	The process by which Members may challenge or require further information on an Executive decision.
Chairman of Committee	The elected Chairman or in his/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, Article 12 of the Constitution, the Chief Executive and Directors comprising the Corporate Management Team.
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 description of the behaviour and ethical standards required by Members and Officers.
Committee	A formal decision-making body which has the functions of the Council referred or delegated to it.
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.
Delegated Powers	The description of the level of authority delegated to a committee, sub-committee, panel, portfolio holder or Officer.
Deputy Leader of the Council	The elected Member appointed by the Leader as deputy leader for a four year term.

Executive	The decision-making body of the Council.
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.
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), the Council is required to give notice and make available, the agenda and associated papers for five clear days.
Group Leader	The Member identified by a political group as its leader by notice in writing to the Chief Executive.
Head of Paid Service	The Officer designated as such under Section 4 of the Local Government and Housing Act 1989.
Key Decision	As defined by the Local Authorities Executive Arrangements (Access to Information) (England) Regulations 2001, the most significant decisions to be taken by the Executive. A more specific definition can be found at Part 2, Article 13.
Leader of the Council	The elected Member appointed by Council as leader for a four year term.
Local Choice Functions	As detailed in Part 3 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 Member of the Council as appropriate.
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.
Non-Key Decisions	Executive decisions taken by Portfolio Holders on less significant matters in accordance with the specified procedure.
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 Authority to nominate representative(s) to serve on its management body.
Panel	A formal group of Members with functions referred by a Committee or a Sub-Committee.
Policy Framework	The plans and strategies which are determined by Council.
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 Chief Executive in writing that they wish to be treated as a political group.

Portfolio Holder	Those elected Members appointed to the Executive.
Proper Officer	The authorised Officer under statutory enactments.
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.
Regulatory Committees	Those Committees of the Council falling outside of the executive arrangements that are charged with regulatory functions, such as development control, 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.
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, by fax or electronically.

Article 3 – Citizens and the Council

3.1 Citizens' rights

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:

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information.** Citizens have the right to:
 - (i) 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;
 - (ii) attend meetings of the executive when key decisions are being considered;
 - (iii) find out from the Council's publications what key decisions will be taken by the executive and when;
 - (iv) see reports and background papers, and any records of decisions made by the Council and the executive; and
 - (v) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate in the Council's question time and contribute to investigations by scrutiny committees.
- (d) **Complaints.** Citizens have the right to complain to:

- (i) the Council itself under its complaints scheme;
- (ii) the Ombudsman after using the Council's own complaints scheme;
- (iii) the Standards Committee about a breach of the Councillor's Code of Conduct;
- (iv) 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 councillors or officers and must not wilfully harm things owned by the council, councillors or officers. When attending meetings citizens will be expected to comply with the decisions of the chairman of that meeting.

Article 12 – Decision Making

12.1 Responsibility for decision making

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

12.2 Principles of decision making

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) an 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.

12.3 Types of decision –

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.
- (b) Key decisions.

- (i) “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 -
 - (a) to result in the local authority incurring expenditure 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) to be significant in terms of its effects on communities living or working in an area comprising 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.

12.4 Decision making by the full Council

Subject to Article 12.8, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

12.5 Decision making by the executive

Subject to Article 12.8, the executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

12.6 Decision making by scrutiny committees

Scrutiny committees will follow the Procedures Rules set out in Part 4 of this Constitution when considering any matter.

12.7 Decision making by other committees and sub-committees established by the Council

Subject to Article 12.8, other Council 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.

12.8 Decision making by Council bodies acting as tribunals

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

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Access to Information Procedure Rules

1.0 SCOPE

- 1.1 These rules apply to all meetings of the Council, scrutiny committees, area committees (if any), the Standards Committee and regulatory committees and public meetings of the executive (together called meetings).

2.0 ADDITIONAL RIGHTS TO INFORMATION

- 2.1 These rules 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 rules.

4.0 NOTICES OF MEETING

- 4.1 The Council will give at least five working days notice of any meeting 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 Council will make copies of the agenda and reports open to the public available for inspection on the Council's website and at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection from the time the item was added to the agenda.

6.0 **SUPPLY OF COPIES**

6.1 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

to any person on payment of a charge for postage and any other costs.

7.0 **ACCESS TO MINUTES ETC AFTER THE MEETING**

7.1 The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the executive, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) 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 Director of Internal Services will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her 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 10) and in respect of executive reports, the advice of a political advisor.

8.2 Public inspection of background papers

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

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 be kept at and available to the public at Wallfields, Pegs Lane, Hertford, Hertfordshire SG13 8EQ.

10.0 EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential information – requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

10.2 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.

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.

10.3 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

10.4 Meaning of exempt information

Descriptions of Exempt Information

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).

11.0 EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

- 11.1 If the Director of Finance and Support Services thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 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.

12.0 APPLICATION OF RULES TO THE EXECUTIVE

- 12.1 Rules 13 – 28 apply to the Executive, its committees and Portfolio Holders.

13.0 PROCEDURES PRIOR TO PRIVATE MEETINGS

- 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) 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.

- 13.2 Where the date by which a meeting must be held makes compliance with paragraph 13.1 impracticable. The meeting may

only be held in private where the Executive has 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
- (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.

As soon as reasonably practicable after the Executive has obtained agreement under paragraph 13.2 to hold a private meeting, it must-

- (a) make available at the 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 Council's website.

14.0 PROCEDURES PRIOR TO PUBLIC MEETINGS

The Council will give notice of the time and place of a public meeting by displaying it at the Council's offices and publishing it on the 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.

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 time that the meeting was convened.

15.0 ACCESS TO AGENDA AND CONNECTED REPORT FOR PUBLIC MEETINGS

A copy of the agenda and every report for a meeting will be made available for inspection by the public at the Council's offices and on the Council's website.

If the Director of Finance and Support Services 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 Director of Finance and Support Services, the meeting is likely to be a private meeting,

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-

- (a) 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
- (b) 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.

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 are likely to exclude the public during the item to which the report relates.

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.

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 Director of Finance and Support Services 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.

16.0 **PUBLICITY IN CONNECTION WITH KEY DECISIONS**

Where a decision maker intends to make a key decision, the Council will publish, a document which states-

- (a) that a key decision is to be made on behalf of the Council
- (b) the matter in respect of which the decision is to be made;
- (c) where the decision maker is the Portfolio Holder, the Portfolio Holder's name, and title if any and where the

- decision maker is the Executive, its name and a list of its members;
- (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 is 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.

At least 28 clear days before a key decision is made, the document must be made available for inspection by the public at the Council's offices and on the Council's website

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 may not contain any confidential or exempt information.

17.0 GENERAL EXCEPTION

Where the publication of the intention to make a key decision is impracticable, that decision may only be made-

- (a) where the Director of Finance and Support 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;

- (b) where the Director of Finance and Support Services has made available at the Council's offices for inspection by the public and published on the Council's website, a copy of the notice; and
- (c) after five clear days have elapsed following the day on which the Director of Finance and Support Services made available the notice.

As soon as reasonably practicable after the Director of Finance and Support Services has issued the notice, the Director will-

- (a) make available at the Council's offices a notice setting out the reasons why compliance with the publicity is impracticable.
- (b) publish that notice on the Council's website.

18.0 CASES OF SPECIAL URGENCY

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-

- (a) the Chairman of the relevant Overview and Scrutiny Committee; or
- (b) or if the Chairman of the relevant Overview and Scrutiny Committee is unable to act, the Chairman of the Council
- (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 making of the decision is urgent and cannot reasonably be deferred,

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-

- (a) make available at the Council's offices a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred; and
- (b) publish that notice on the Council's website.

19.0 RECORDING OF EXECUTIVE DECISIONS MADE AT MEETINGS

- (1) As soon as reasonably practicable after any meeting of the Executive or its Committee at which an executive decision was made, the Director of Finance and Support Services, or if the Director was not present at the meeting, the person presiding, must ensure that a written statement is produced for every executive decision made which includes the information specified in paragraph (2).
- (2) The statement referred to in paragraph (1) must include-
 - (a) a record of the decision including the date it was made;
 - (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 EXECUTIVE DECISIONS MADE BY PORTFOLIO HOLDERS

- (1) As soon as reasonably practicable after a Portfolio Holder has made an Executive decision, the Portfolio Holder will produce or instruct the Director of Finance and Support Services to produce a written statement of that Executive decision which included the information specified in paragraph (2).
- (2) The Statement referred to in paragraph (1) must include-
 - (a) a record of the decision including the date it was made;
 - (b) a record of the reasons for the decision;
 - (c) details of any alternative options considered and rejected by the Portfolio Holder when making the decision;
 - (d) a record of any conflict of interest declared by any Executive Member who is consulted by the Portfolio Holder which related to the decision; and
 - (e) in respect of any declared conflict of interest , a note of dispensation granted by the Head of Paid Service.
- (3) 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) a record of the decision including the date it was made;
 - (b) a record of the reasons for the decision;
 - (c) details of any alternative options considered and rejected by the officer when making the decision;
 - (d) a record of any conflict of interest declared by any Executive Member who is consulted by the officer which relates to the decision; and

- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

21.0 INSPECTION OF DOCUMENT FOLLOWING EXECUTIVE DECISIONS

Unless they contain confidential or exempt information, after a meeting of the Executive or its Committee at which an executive decision has been made, or after a Portfolio Holder or an officer has made an Executive decision the Director of Finance and Support Services 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 or officer and relevant to a decision record or, where only part of the report is relevant to such a decision, that part,

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,

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 Council on payment by the newspaper of postage, copying or other necessary charge for transmission.

22.0 INSPECTION OF BACKGROUND PAPERS

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) 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
- (b) 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 MEMBERS OF LOCAL AUTHORITIES

(1) Subject to paragraphs (5) to (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

(2) Any document which is required by paragraph (1) 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 (1) in relation to that item, must be available for inspection when the item is added to the agenda.

(3) Subject to paragraphs (5) to (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 a 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 a Portfolio Holder or an office immediately after the decision has been made.

- (4) Any documents which is required by paragraph (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.
- (5) Paragraphs (1) and (3) do not require a document to be available for inspection if it appears to the Director of Finance and Support Services that it discloses exempt information.
- (6) Notwithstanding paragraph (5), paragraphs (1) and (3) do require the document to be available for inspection if the information is -
 - (a) Information relating 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 Council in the course of negotiations for a contract); or
 - (b) 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) These right's 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 (3) a Member of an Overview and Scrutiny Committee is entitled to a copy of any document which-
 - (a) is in the possession or under the control of the Executive ; and
 - (b) 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.
- (2) Subject to paragraph (3), where a Member of an Overview and Scrutiny Committee requests a document which falls within paragraph (10), 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.
- (3) No Member of an Overview and Scrutiny Committee is entitled to a copy-
 - (a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to-
 - i. an action or decision that a Member is reviewing or scrutinising; or
 - ii. any review contained in any programme of work of such a Committee or Sub-Committee of such a committee
- (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 (1) or (3), it must provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

25.0 REPORTS TO THE LOCAL AUTHORITY WHERE THE KEY DECISION PROCEDURE IS NOT FOLLOWED

- (1) Where an Executive decision has been made and-
 - (a) was not treated as being a key decision; and
 - (b) a relevant Overview and Scrutiny Committee are 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.

- (2) A report under paragraph (1) must include details of-
 - (a) the decision and the reasons for the decision;
 - (b) the decision maker by which the decision was made; and
 - (c) if the Executive are of the opinion that the decision was not a key decision, the reasons for that opinion

26.0 EXECUTIVE REPORTS TO THE LOCAL AUTHORITY

- (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.

A report submitted for the purposes of paragraph (1) must include-

- (a) particulars of each decision made; and

- (b) a summary of the matters in respect of which each decision was made.
- (3) The Leader shall submit a least one report under paragraph (1) annually to the Council.

27.0 INSPECTION AND SUPPLY OF DOCUMENTS

- (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-
 - (a) at all reasonable hours at the Council's offices
 - (b) on the Council's website
 - (c) 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.

28.0 ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE

- (a) 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.
- (b) All Members of the executive are entitled to attend a private meeting of any committee of the executive.
- (c) 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.
- (d) 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

In all of the above examples, the provisions of Rule 18 (recording and publicising decisions) will apply.

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Budget and 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 as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the executive to implement it.

2.0 Process for developing the framework

2.1 The process by which the budget and policy framework shall be developed is:

- (a) 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.
- (b) 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.
- (c) Once the Executive has approved the firm proposals, the Chief Executive will refer them at the earliest opportunity to the Council for decision.

(d) Where the Council has any objections to the proposals, it must take the action set out in (e) below.

(e) Before the Council:

(i) amends the proposals;

(ii) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any proposals (whether or not in the form of a draft) of which any part is required to be so submitted; or

(iii) adopts (with or without modification) the proposals

it must inform the Leader of any objections which it has and must give him instructions requiring the Executive to reconsider, in the light of those objections, the proposal which was submitted to it.

(f) 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:

(i) 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

(ii) 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.

(g) When the period specified by the Council, referred to in (f) above, has expired, the Council must, when:

(i) amending the proposal or, if there is one, the revised proposal;

- (ii) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his 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
- (iii) 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.

- (h) 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:
 - (i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 of the Local Government Finance Act 1992 (the 1992 Act);
 - (ii) estimates of other amounts to be used for the purposes of such a calculation;
 - (iii) 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.

- (i) 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 instructions requiring the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

- (j) 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:
- (i) 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
 - (ii) 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.
- (k) 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:
- (i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
 - (ii) the Executive’s reasons for those amendments;
 - (iii) any disagreement that the Executive has with any of the Council’s objections; and
 - (iv) the Executive’s reasons for that disagreement
- which the Leader submitted to the Council or informed the Council of within the period specified.
- (l) (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?

The Leader decides how the Executive functions shall be discharged by:

- (a) the Executive as a whole;
- (b) a Committee of the Executive;
- (c) an individual Member of the Executive;
- (d) an officer;
- (e) an area Committee;
- (f) joint arrangements; or
- (g) another local authority.

1.2 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/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 Committees as the Leader appoints and the names of Executive Members appointed to them;
- (f) the nature and extent of any delegation of Executive functions to area 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 Sub-delegation of executive functions

- (a) Any Executive function which is the responsibility of a Member or Members may be delegated, for example, to an officer.
- (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 The Council's scheme of delegation and executive functions

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) The Leader may amend the scheme of delegation relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the Chief Executive 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 Chief

Executive will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

- (c) Where the Leader seeks to withdraw delegation from a Committee, notice will be deemed to be served on that Committee when he/she has served it on its Chairman.

1.5 Conflicts of Interest

- (a) Where the Leader 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.
- (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 function has been delegated to a Committee of the Executive, an individual Member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

1.6 Executive meetings – when and where?

The Executive will meet at least 6 times per year at times to be agreed by the Leader. The Executive shall meet at the Council's offices at Wallfields, Pegs Lane, Hertford, Hertfordshire or another location to be agreed by the Leader.

1.7 Quorum

The quorum for a meeting of the Executive, or a Committee of it, shall be 4 Members of the Executive.

1.8 How are decisions to be taken by the Executive?

- (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.

- (b) Where Executive decisions are delegated to a Committee of the Executive, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the 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).

2.2 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 Disclosable 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 (e.e s/he has a pecuniary interest) 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.

3.0 HOW ARE EXECUTIVE MEETINGS CONDUCTED?

3.1 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.

3.2 What business?

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

- (a) consideration of the minutes of the last meeting;
- (b) declarations of interest, if any;
- (c) matters referred to the Executive (whether by a Scrutiny 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;

- (d) consideration of reports from Scrutiny Committees; and
- (e) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

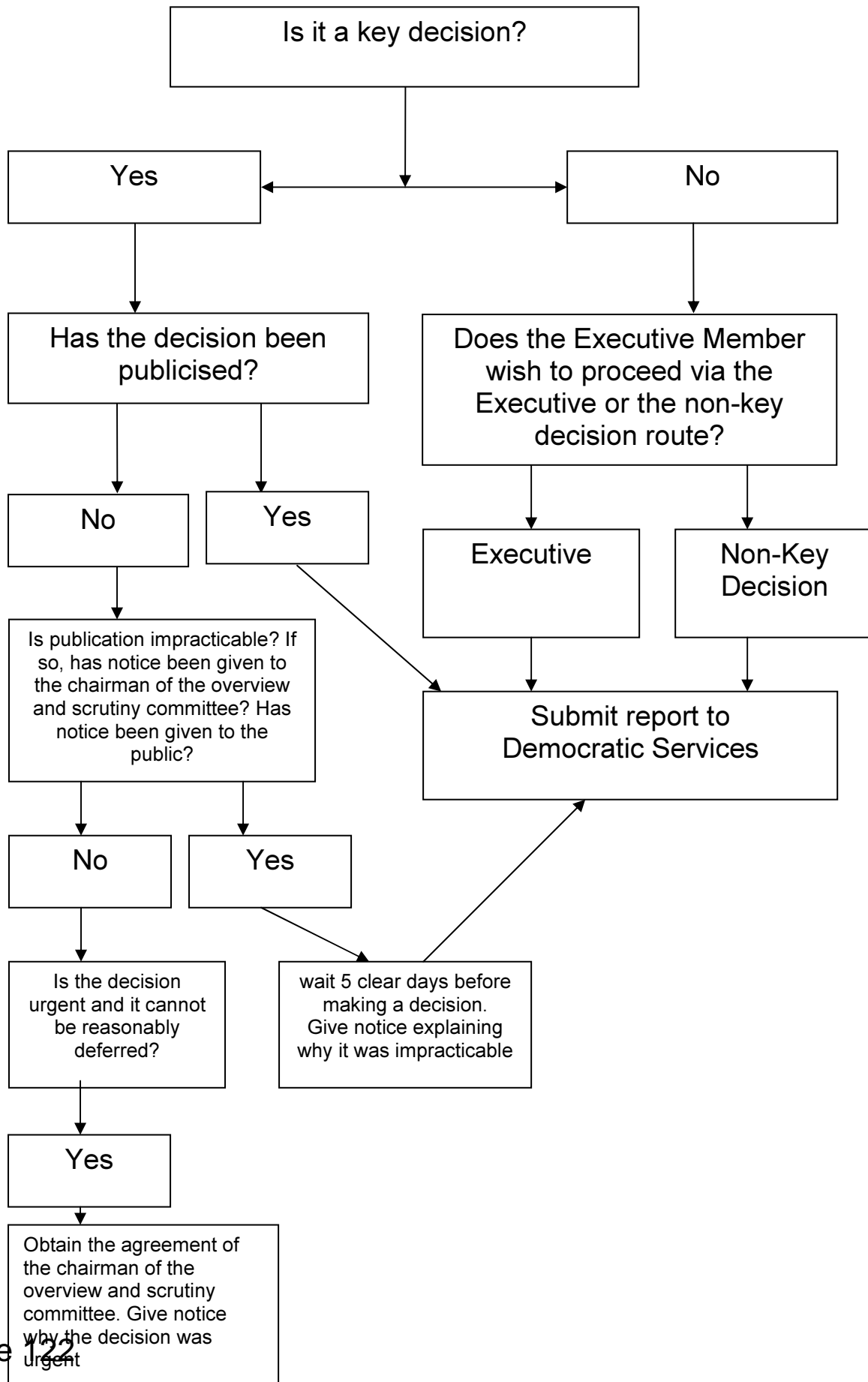
3.3 Consultation

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

3.4 Who can put items on the executive agenda?

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 Director of Internal Services 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.

EXECUTIVE DECISION-MAKING PROCESS



Member/Officer Relations Protocol

(Including Guidance on Access to Information)

A INTRODUCTION

1. Following the adoption of the Code of Conduct for Members, the opportunity has been taken to produce the Protocol with regard to Member/Officer Relations. This protocol includes some general guidance on Access to Information.
2. Given the variety and complexity of Member and Officer relations, this Protocol does not seek to cover everything or be prescriptive in its application. General guidance is offered on some of the issues that most commonly arise or cause concern. It is hoped, therefore, that the approach which this Protocol adopts will serve as a guide to dealing with other issues that may arise from time to time.
3. This Protocol seeks to encourage best practice and to promote greater clarity and certainty between the various relationships. If Members are unsure about any matter, they should contact the Monitoring Officer for appropriate advice and assistance. If Officers are unsure about any matter, they should contact the Chief Executive the relevant Director, and/or the Monitoring Officer. If there is any disagreement in the interpretation of this Protocol, the opinion of the Monitoring Officer will prevail.
4. Where appropriate, the Monitoring Officer will also consult the Chief Finance Officer, the Head of Paid Service and the Leaders of the Political Groups on any further general guidance. In addition, there will be a specific code for planning matters and it is anticipated that a national code will be introduced for Officers. Members and Officers should, therefore, keep abreast of such issues and respect each other and not do anything to bring the Council, their offices or professions into disrepute.

B GENERAL MEMBER/OFFICER ISSUES

5.1 The opportunity is taken to reinforce the following points:

- (i) In order to ensure the business of the Council is transacted in an effective and efficient manner and with a view to ensuring that the Council is not brought into disrepute, the key guiding principle for Members and Officers has to be one of “engendering mutual trust, openness, honesty, fairness, transparency and treating everyone with respect”;
- (ii) Officers, being employees of the Council, must act in the best interests of the Council, as a whole and must not give politically partisan advice. Anyone breaching this requirement will face disciplinary action;
- (iii) Political Group meetings, whilst they perform an important part in the preliminaries to Council decision-making, are not formal decision-making bodies of the Council and, as such, are not empowered, even under the new constitutional arrangements, to make decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as Council decisions and it is essential that Members and Officers understand and interpret such decisions accordingly;
- (iv) Officer support to Political Groups must not extend beyond providing information and advice in relation to Council business (not Party politics/business);
- (v) It is good practice for Party political debates and decision-making to take place in the absence of Officers, in order to avoid any suspicion of impropriety or misunderstanding;
- (vi) Officers must respect the confidentiality of any Political Group discussions; and
- (vii) any breach of this part of the Protocol by an Officer must be brought to the attention of the Head of Paid Service and/or the Monitoring Officer for consideration.

Legal and External Audit Considerations

- 5.2 Members of the Council do not, as elected Members, have any special immunity from civil or criminal wrongs that they may commit against fellow Members, Officers or members of the public. Members must abide by the Code of Conduct for Members and ensure they do not, for example, slander or libel another person. During the course of their normal duties for the Council, Members will, therefore, only have a qualified (not absolute) protection against prosecution or civil action.
- 5.3 Members must also not pressurise Officers to change their professional opinions on any Council business matter or do anything that compromises, or which is likely to compromise, the impartiality of Officers or those who work for, or on behalf of the Council. It is also imperative that Members are clear about their roles and the roles of Officers, so as to avoid getting inappropriately involved in, for example, the internal office management, discipline and/or other employment related issues, as the actions of the Member(s) may be held to be the actions of the Council, as an “employer”.

Standards

- 5.4 Any member of the public (including Members and Officers) can complain to the Council’s Standards Committee against an alleged breach of the Code of Conduct for Members and/or bring private civil litigation proceedings against an elected Member. The External Auditor can also take legal action against an elected Member and the Council, as a whole, for any breaches of law.

Public Relations Issues

- 5.5 The Council’s Communications Section are responsible for dealing with the press and other media organisations on behalf of the Council. It is important, therefore, that all official communication relating to the Council (but not party political or private matters) is dealt with by this Section, so as to ensure the proactive, effective and efficient management of the Council’s public image, relations and interface.

C SPECIFIC POINTS ON MEMBER/OFFICER RELATIONS

- 6.1 The relationship between Members and Officers generally is characterised by mutual trust, respect and courtesy. These are essential for good local government and serve to enhance local democracy.
- 6.2 Close personal familiarity between individual Members and Officers can damage professional relationships and can prove embarrassing to other Members and Officers. Situations should be avoided, therefore, that could give rise to suspicion and/or appearance of improper conduct of behaviour. This includes excessive socialising between Members and Officers.
- 6.3 Members shall use the Council email address provided for that Member when acting in an official capacity as a Member.

Employer/Employee Issues

- 6.4 Any dealing between Members and Officers should, therefore, be conducted with mutual trust, respect and courtesy, and neither party should seek to take an unfair advantage. In particular, Members should recognise and pay due regard to their role as an employer in their dealings with Officers, as Officers could use inappropriate behaviour and conduct of Members in bringing employment cases against the Council. In particular, it is quite proper for a Member to make written/oral representations about a constituent employee to the Chief Executive or the relevant Director, but the Member should avoid taking a proactive part to represent or in any other way advocate on behalf of any such employee in any disciplinary procedures brought by the Council against any such employee.
- 6.5 Members must, in particular, guard against putting inappropriate pressure on junior officers and must ensure that all communication between them (including written communication) does not bring the Council into disrepute, cause any embarrassment to them, or lead to the breakdown of mutual trust, respect and courtesy in Member/Officer relations.
- 6.6 In seeking advice and support, Members should have due regard to the seniority of the Officer with whom they are dealing and recognise that, whilst those Officers owe an overriding duty to the

Council as a whole, such duties are first expressed to their respective line managers and not to any individual Member. For this reason, Members should not give direct instructions to staff.

Equality Issues

- 6.7 The Council has statutory duties with regard to equality issues and in accordance with the Code of Conduct for Members, Members must also promote equality by not discriminating against others. Members and Officers shall not, therefore, by their behaviour or speech act discriminatorily with regard to, for example, a person's gender, race, disability, religion, ethnicity, nationality or sexual orientation. Such principles will apply to the implementation of personnel policies, recruitment and promotion as they apply to day to day dealings with fellow human beings.

Officer Conduct or Capability Issues

- 6.8 Members should not raise matters relating to the conduct or capability of an Officer (or of Officers, collectively) at meetings held in public or before the Press, as Officers have no means of responding to the same in public. If Members feels that they have not been treated with the proper mutual trust, respect or courtesy or has any concern about the conduct or capability of an Officer, they should raise the matter, in private, with the relevant Officer and, if necessary, the Chief Executive or the relevant Director. Any concerns with regard to a Director should be discussed in private with the Chief Executive.
- 6.9 Members will be in breach of the Code of Conduct for Members if they require any Officer to:
- (a) change any professional advice; or
 - (b) take any action which the Officer considers to be unlawful or illegal or which could amount to maladministration or breach any relevant Codes of Conduct (including professional codes of conduct).

Monitoring Officer/Chief Finance Officer Consultation

- 6.10 Members are required to consult with the Monitoring Officer and the Chief Finance Officer over any legality, maladministration,

financial impropriety, or probity issues or where they have any doubt as to whether particular decisions are or were likely to be contrary to the Council's policy framework, the budget or the law. Inappropriate or late consultation will not satisfy the need to consult those Officers at the relevant time.

Political Groups

- 6.11 Members of the Executive, Scrutiny and Regulatory Committees shall, at all times, respect the political impartiality of Officers and must not expect or encourage Officers to give a political view on any matter.
- 6.12 For the avoidance of doubt, it must be recognised by all that, in discharging their duties, Officers serve the Council, as a whole, and not exclusively any Political Group, combination of groups, or any individual Members.
- 6.13 Officers may properly be called upon to support and contribute to the deliberations of Political Groups but they must at all times, maintain political neutrality. This applies, in particular, to Politically Restricted Officers, who are governed by the Local Government and Housing Act 1989. All Officers must, in their dealings with Political Groups and individual Members, treat them in a fair and even handed manner.
- 6.14 Any request for advice given to a Political Group or Member will be treated with the strictest of confidence by the Officers concerned and will not be accessible to any other Political Group(s). Factual information upon which any advice is based will, if requested, be available to all Political Groups.
- 6.15 When attendance is requested for Political Group meetings:
- (a) the request to attend a Political Group meeting must be made through and approved by the Chief Executive;
 - (b) such a request can only be made in relation to Council business; and
 - (c) Officers will:
 - (i) provide relevant factual advice and assistance;

- (ii) leave during the deliberations of the Political Group on the issue;
- (iii) respect the confidentiality of any Political Group decision at which they are present; and
- (iv) not champion, defend, action or spend any resources of the Council, or be held responsible for actioning in any way whatsoever the decisions of the Political Group(s), unless and until such decisions have become the formal decisions of the Council.

D SPECIFIC POINTS ON SCRUTINY ARRANGEMENTS

7.1 The Council's Scrutiny Committees will seek the advice of:

- (a) the Monitoring Officer, where they consider there is doubt about the legality of any Executive decision(s); or
- (b) the Chief Executive or relevant Directors, where they consider a decision (or decisions) of the Executive might be contrary to the Council's policy framework.

7.2 When considering calling Officers to give evidence to any Scrutiny Committee, the Chairman of that Committee shall not, without the consent of the Chief Executive, request the attendance of a junior officer.

7.3 When asking Officers to give evidence before any Scrutiny Committee, questions should be confined, so far as is possible, to questions of fact and explanation of any professional opinion relating to policies and decisions. Officers must respond to questions from Members in an open, constructive and helpful manner. Officers must not mislead or be economical with the truth.

7.4 Where they consider it appropriate, the Chairmen of the relevant Scrutiny Committee may ask the Chief Executive and Directors to explain any advice given by them to Members of the Executive and explain any decision(s) the Chief Executive or Directors may

have taken under the Scheme of Delegations to Officers. For the avoidance of doubt, any private or confidential matter must be dealt with in a private or confidential manner.

Unacceptable or Inappropriate Behaviour

- 7.5 The Relevant Chairman of the Scrutiny Committee shall ensure that Members of the Executive and Officers are not questioned (whether through the nature, tone or language used), in such a manner as could be considered by a reasonable person to be hostile, offensive, derogatory, harassing, bullying, victimising, discriminatory or otherwise unacceptable or inappropriate behaviour by a Member. Equally, it has to be recognised that such Committees have no jurisdiction to deal with matters, which are of a disciplinary nature for the relevant Political Group (in respect of Members) or the Chief Executive (in respect of Officers).
- 7.6 Any allegation of unacceptable or inappropriate behaviour by a Member, as set out in paragraph 7.5, will be reported to the Leader of the relevant Political Group for consideration, or a complaint may be made to the Monitoring Officer if the complaint related to a breach of the Members' Code of Conduct.

E ACCESS TO INFORMATION – ‘Need to know’

Statutory provisions

- 8.1 The Local Government (Access to Information) Act 1985 (which is Section 100F of the Local Government Act 1972) was introduced to give additional rights to Elected Members. The Act was at pains to stress that these rights were in addition to those at common law.
- 8.2 Section 100F makes it clear that any document which is in the possession or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council, or a committee or a sub-committee of the Council, subject to confidentiality provisions, will be open to inspection by a Member of the Council.

8.3 Section 100F does not, however, go as far as the common law, vis-à-vis, the Committee Member. For non-Committee Members, their position is enhanced by section 100F. In both cases, however, if there appears to be confidential/exempt information, by virtue of the other parts of the Act, there is still the discretion for the relevant Proper Officer to withhold the confidential/exempt information.

8.4 It is also a matter of fact as to whether or not the information is 'in the possession or under the control of the Council'. The key issue to be determined is whether or not the information belongs to the Council or another person. If it belongs to another person, Officers will only release any confidential information, after an appropriate consent to release such information has been obtained from the relevant person. Officers will not, therefore, "hand over" their files to a Member, without the Officer being clear about the reasonableness of the request and the Officer's ability to share confidential information with a Member. If Officers are unsure about a request for information, they must discuss the same with their line manager and/or the Monitoring Officer.

8.5 Under the Local Government Act 2000 Executive arrangements and subject to important exceptions (see paragraph 8.6 below), any relevant document which -

- (a) is in the 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 Members of the Council. If, however, the meeting is a private one (including a key decision by the Executive) any relevant document will be available for inspection after the meeting or immediately after a decision has been taken.

8.6 The exceptions, to the above general requirement of paragraph 8.5, are that -

- (a) exempt information (under paragraphs 1, 2, 4, 5 and 7 of Part 1 of Schedule 12A of the Local Government Act 1972

- see paragraph 8.9 below) would be disclosed; or
 - (b) the document (or part of it) would involve the disclosure of advice provided by a political adviser or assistant.
- 8.7 In addition to the above and subject to important exceptions (see paragraph 8.8 below), a Scrutiny Committee Member will be entitled to a copy of the relevant document which -
- (a) is in the possession or under the control of the Executive, its Committee or the Portfolio Holder;
 - (b) contains material relating to:
 - (i) any business that has been transacted at a meeting of the Executive or its Committees
 - (ii) any decision taken by a portfolio holder.
 - (iii)
 - (iv) any decision made by an officer under the Executive arrangements
- 8.8 The exceptions to the above general requirements of paragraph 16 are that:
- (a) such a document (or part of it) contains exempt or confidential information, unless it is relevant to any action or decision that that Member is reviewing or scrutinising or any review contained in any programme of work of such a sub committee; or
 - (b) the document (or part of it) would involve the disclosure of advice provided by a political adviser or assistant.
- 8.9 For the purposes of completeness, the Access to Information Procedure Rules (set out in Part 4 of the Constitution) provides an extract of the statutory exempt information paragraphs, which permit reports to be considered in private. As a guiding principle and in keeping with good open government, Members of the Executive, Chairmen of relevant Committees and Officers will ensure that, so far as is possible and permitted by law, reports are considered in public. If Members or Officers have any concerns over whether a private report ought to be (or should

have been) considered in public, they should raise the matter, at the earliest opportunity, with the Chief Executive, Chairman of the Committee or the Monitoring Officer for a decision.

Common law principles

- 9.1 In addition to the statutory provisions, the common law right of members to access information is based on the principle that Members have a *prima facie* right to inspect Council documents *so far as access to the documents is reasonably necessary to enable Members properly to perform their duties as Members of the Council*. This principle is commonly referred to as the “need to know” principle.
- 9.2 This principle applies equally to Leaders of the Political Groups and, under common law principles, the courts have not determined that any Leader has an ‘automatic’ right to information. Accordingly, for the purpose of legal considerations, Leaders are treated as ordinary Members, if they wish to see Council documents; although they will, in most situations, be able to readily satisfy the ‘need to know’ requirements on the submission of reasonable information or by reasonable implication to substantiate the same. Leaders of Political Groups will, therefore, still have to demonstrate that their request is a proper and reasonable one and give adequate reasons for requiring the information.
- 9.3 In addition, it should be remembered that the access to information right will vary from Member to Member, which will arise at different times and, as such, a Member’s ‘need to know’ will be considered on a case by case basis and will not last indefinitely.
- 9.4 The above statements on the common law position are subject to additional safeguards to protect Council information; namely, if the motive of a Member requesting to see documents is indirect, improper or ulterior, this may be raised by the Council as a bar to the Member’s entitlement to inspect documents that are addressed to the Council. The entitlement of a relevant Committee Member to inspect documents of the Committee is a strong one and certainly stronger than that of a non-Member of the Committee. However, as indicated earlier, the rights of the former are not absolute, as it would still be open to the

Committee/Council to raise a bar to the exercise of such a right on the grounds of the Member's motives being improper, indirect or ulterior.

- 9.5 Furthermore, the law does not entitle a Councillor to go on a "roving or a fishing expedition" or to receive every working document that Officers have access to or may have had access to in the past. Councillors will only be entitled to see those documents that are relevant background papers mentioned in any report received by the (Sub-) Committee or other reasonable requests for relevant papers in order to comply with their 'right to know'. Clearly, any confidentiality attached to the same remains and the same must be kept confidential and not released to any other person. This includes, of course, members of the press. If the breach is serious enough, the person whose confidence has been destroyed may also bring a civil action against the Member (and/or the Council) for damages.
- 9.6 A balance has, therefore, to be struck between a Member's right to know and an individual's/business/organisation's need for confidentiality, as defined in the Local Government Act 1972 S.100A; especially where the individual/business/organisation has requested confidentiality of the information provided to Council Officers. If the cost of providing the information exceeds the limit for the purposes of declining a request under the Freedom of Information Act 2000, the request will be refused.
- 9.7 If any confidential information is contained in public documents then it will, of course, lose its confidentiality. Equally, draft working documents are subject to change and it is reasonable for those documents to be withheld until the matter is formally reported to the relevant committee/decision maker.
- 9.8 The Freedom of Information Act 2000 brings additional rights, responsibilities and safeguards regarding confidential information. The Act became fully operational in January 2005. A "Publication Scheme" has been produced by the Council.

G COUNCIL PUBLICITY

10. During the election period, special rules apply with regard to local authority publicity. For ease of reference, an extract from "The

Code of Recommended Practice on Local Authority Publicity” appears at Annex A to this Protocol. Members and Officers should also refer to the Council’s Media Protocol.

H SANCTIONS FOR BREACH OF THE CODE OF CONDUCT FOR MEMBERS AND THIS GENERAL GUIDANCE

11. Complaints against any breach of the Code of Conduct for Members must be referred to the Monitoring Officer. Complaints against any breach of this Protocol by a Member may be referred to the Standards Committee. Complaints against any breach of this Protocol by an Officer may be referred to the Chief Executive, the relevant Director or the Monitoring Officer.

**Relevant extracts from the
CODE OF RECOMMENDED PRACTICE ON
LOCAL AUTHORITY PUBLICITY**

Care during period of heightened sensitivity

Local authorities should pay particular regard to legislation governing publicity during the period of heightened sensitivity before election and referendums- see paragraphs 7 and 9 of this code. It may be necessary to suspend the hosting of material produced by third parties, or to close public forums during this period to avoid breaching any legal restrictions.

During the period between the notice of an election and election itself, local authorities should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual Members or groups of Members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised or under statute. It is permissible for local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.

In general, local authorities should not issue any publicity which seeks to influence voters. However this general principle is subject to any statutory provision which authorises expenditure being incurred on the publication of material designed to influence the public as to whether to support or oppose a question put as a referendum. It is acceptable to publish material relating to the subject matter of a referendum, for example to correct any factual inaccuracies which have appeared in publicity produced by third parties, so long as this is even-handed and objective and does not support or oppose any of the options which are the subject of the vote.

Members' Planning Code of Good Practice

Background

Introduction

- 1 Relationship to the Members' Code of Conduct
- 2 Development Proposals and Interests under the Members' Code of Conduct
- 3 Fettering Discretion in the Planning Process.
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- 6 Lobbying by Councillors
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Background

This Code of Good Practice has been prepared in response to the Local Government Association's Guidance Note on the preparation of Local Codes of Good Practice on Planning Matters in the light of the introduction of the new ethical framework and in consultation with the District Audit Service and the Local Government Ombudsman.

Introduction

The aim of this code of good practice: to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

The key purpose of Planning: to control development in the public interest.

Your role as a Member of the Planning Authority: this code applies to Members at all times when involving themselves in the planning process. (This includes, where applicable, when part of decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.

1.0 **Relationship to the Members' Code of Conduct**

- 1.1 **Do** apply the rules in the Members' Code of Conduct first, which must always be complied with.
- 1.2 **Do** then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Code of Good Practice, you may put the Council at risk of proceedings on the legality or maladministration of the related decision.

2.0 **Development Proposals and Interests under the Members' Code**

- 2.1 **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter. An exemption to declaring a personal interest applies when it arises solely from membership, general control or management on any body where they are appointed by the Council or any other body exercising functions of a public nature. In these cases, Members need only to declare if they speak. If they do not speak, they may vote without a declaration

3.0 **Fettering Discretion in the Planning Process**

- 3.1 **Don't** fetter your discretion and therefore your ability to participate in planning decision making at this Council by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and of your hearing the officer's presentation and evidence and arguments on both sides.

Fettering your discretion in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to

take into account all of the factors enabling the proposal to be considered on its merits.

- 3.2 **Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- 3.3 **Don't** speak and vote on a proposal where you have fettered your discretion. You do not also have to withdraw, but you may prefer to do so for the sake of appearances.
- 3.4 **Do** explain that you do not intend to speak and vote because you have or you 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.
- 3.5 **Do** take the opportunity to exercise your separate speaking rights as a Ward Member (*with the consent of the Chairman and Committee*) where you have represented your views or those of local electors and fettered your discretion, but do not have a pecuniary interest. Where you do:
- advise the Legal Officer or Chairman that you wish to speak in this capacity before commencement of the item:
 - remove yourself from the Member seating area for the duration of that item; and
 - ensure that your actions are recorded.

4.0 **Contact with Applicants, Developers and Objectors**

- 4.1 **Do** refer those who approach you for planning, procedural or technical advice to officers.

4.2 **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Director of Neighbourhood Services to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

4.3 **Do** otherwise:

- follow the rules on lobbying;
- consider whether or not it would be prudent in the circumstances to make notes when contacted; and
- report to the Director of Neighborhood Services any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

4.4 **In addition** in respect of presentations by applicants/developers:

- **Don't** attend a planning presentation unless an officer is present and/or it has been organised by officers.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.
- **Do** be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other Members might vote.

5.0 Lobbying of Councillors

- 5.1 **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Committee's decision making process and to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.
- 5.2 **Do** remember that your overriding duty is to the whole community not just to the people in your ward area and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 5.3 **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible.
- 5.4 **Do** copy or pass on any lobbying correspondence you receive to the Director of Neighbourhood Services at the earliest opportunity.
- 5.5 **Do** promptly refer to the Director of Neighbourhood Services any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- 5.6 **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts of hospitality), who will in turn advise the appropriate officers to follow the matter up.
- 5.7 **Do** note that, unless you have a pecuniary interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:
- listening or receiving viewpoints from residents, applicants or other interested parties;
 - making comments to residents, applicants, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue

and you make clear you are keeping an open mind;

- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

6.0 **Lobbying by Councillors**

6.1 **Don't** become a member or, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion.

6.2 **You may** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.

6.3 **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.

6.4 **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

7.0 **Site Visits**

- 7.1 **Do** ensure that any information which you gained from the site visit is reported back to the Committee, so that all Members have the same information.
- 7.2 **Do** ensure that you treat the site visit only 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, which is not apparent from the report to be considered by the Development Control 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.
- 7.3 **Don't** hear representations from any other party, with the exception of the Ward/Local Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present. Members should make a note recording the details of the meeting.
- 7.4 **Don't** express opinions or views to anyone. Members should not express an opinion on the planning application and its merits (or otherwise) at the site visit.
- 7.5 **Don't** 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).

8.0 **Public Speaking at Meetings**

- 8.1 **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as they may give the appearance of bias.

8.2 **Do** ensure that you comply with the Council's procedures in respect of public speaking.

9.0 **Officers**

9.1 **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Director of Neighbourhood Services, which may be incorporated into any committee report).

9.2 **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by the Head of Planning and Building Control to deal with the proposal at Member level.

9.3 **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committees or its Members.

10.0 **Decision Making**

10.1 **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your reasons are recorded and repeated in the report to the Committee.

10.2 **Do** come to meetings with an open mind and demonstrate that you are open-minded.

10.3 **Do** comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

- 10.4 **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- 10.5 **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- 10.6 **Do** have recorded the reasons for Committee's decision to defer any proposal and that this is in accordance with the Council's protocol on deferrals.
- 10.7 **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.
- 11.0 **Training**
- 11.1 **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training (including annual refresher training) prescribed by the Council.
- 11.2 **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- 11.3 **Do** participate in the periodic review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.

EAST HERTS COUNCIL

COUNCIL – 26 SEPTEMBER 2012

REPORT BY THE LEADER OF THE COUNCIL

APPOINTMENT OF INDEPENDENT PERSONS

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

- This report seeks appointments to be made for the roles of Independent Person and reserve Independent Persons under the Localism Act 2011.

<u>RECOMMENDATIONS FOR COUNCIL</u> That:	
(A)	that Philip Copland be appointed as Independent Person:
(B)	that Katherine Dumovic and Hazel Howitt be appointed as reserve Independent Persons.

1.0 Background

- 1.1 This report seeks appointments to be made for the roles of independent Person and reserve Independent Persons for the new regime on Members' Standards introduced by the Localism Act 2011.

2.0 Report

Each of the individuals proposed to be appointed are suitable for the post of Independent Person and each have confirmed that they would be prepared as an Independent Person.

- 2.1 At its meeting of 15 May 2012 the Council considered a report on proposed new arrangements relating to Member's conduct required in consequence of the provisions in the Localism Act 2011. The legislation requires the Council to appoint an "Independent Person". The Act requires that the views of the

Independent Person must be sought on a complaint referred for investigation before the outcome of the complaint is determined. Also, the Member who is the subject of a complaint may discuss the matter with the Independent Person.

2.2 The Council resolved that the Council join with other Authorities with a pool of Independent Persons and the Independent Persons be reimbursed for travel and subsistence expenses. It has not proved possible make arrangements with other authorities to create pool of Independent Persons. Therefore, applications for the position of Independent Person were invited and each candidate submitted an application.

2.3 Each applicant was interviewed by the Leader, the Chief Executive and Director of Customer and Community Services and the Director of Neighbourhood Services who unanimously support the recommendations in this report. The Act requires that the appointment of an Independent Person be approved by a majority of Members of the Council (not just the majority of those voting).

2.4 Philip Copland is a retired Borough Solicitor and former local authority Chief Executive. Katherine Dumovic is a local resident who has worked in the public sector and local government. Hazel Howitt is working in the public sector.

2.5 It is recommended that one Independent Person and, in case the Independent Person should be unavailable or a conflict of interest should arise, two Independent Persons be appointed. If all candidates are appointed together, all three would need to be consulted in every case. This would not deal with a potential conflict situation as all three may be in a conflict position. It is therefore proposed that two candidates are held in reserve. They would be fully involved and would receive the same training and support and involvement with the Standards Committee.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers
Localism Act 2011

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ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i>	People This priority focuses on enhancing the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.
Consultation:	There has been no consultation.
Legal:	The legal issues are contained in the report.
Financial:	Travel and expenses are payable which will be met from existing budgets.
Human Resource:	There are no implications.
Risk Management:	The Council is required to appoint an Independent Person. Without an Independent Person the Standards Committee would not be able to deal with complaints.