



# CONSTITUTION

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*Comments, queries and omissions should be directed to the Council's Monitoring Officer or Democratic Services at [democratic.services@eastherts.gov.uk](mailto:democratic.services@eastherts.gov.uk)*

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# Summary and Explanation

## **1.1 The council's Constitution**

East Herts Council has agreed a constitution which sets out how the council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the council to choose.

## **1.2 What's in the Constitution?**

1.2.1 The Constitution describes the various bodies that make up the Council, their functions, membership and procedural rules.

1.2.2 The workings of the Council's committees can be found in Sections 3 to 8. Sections 10 and 11 provide information on the management and Officer structures of the council. Some Officers have a specific duty to ensure that the Council operates within the law and uses resources wisely.

1.2.3 Sections 14 to 19 have the Codes of Conducts and Protocols which Officers and Members have agreed to comply with.

## **1.3 How the Council operates**

1.3.1 The Council is composed of 50 Members elected every four years. Members are democratically accountable to residents of their ward. The overriding duty of Members is to the whole community of East Herts, but they have a special duty to their constituents, including those who did not vote for them.

1.3.2 Members have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee, through the Monitoring Officer, trains and advises them on the code of conduct.

1.3.3 All Members meet together as the Council. Meetings of the Council are open to the public unless exempt or confidential matters are under discussion. At these meetings, Members decide the Council's overall policies and set the budget each year. The Council will appoint the Leader, agree the terms of reference of committees and make appointments to them. It will also approve the policy framework, holding to account the Executive and committees. There are public question times when any person may put forward questions.

## **1.4 How Decisions Are Made**

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

## **1.5 Scrutiny**

1.5.1 There is one scrutiny committee the role of which is to:

- (a) Hold the Executive to account for its actions;
- (b) Advise on the development and implementation of new policy and corporate projects;
- (c) Test whether existing policies and practices are effective and efficient and suggesting how they might be improved; and

(d) Ensure the rigour and objectivity of performance management and service reviews.

1.5.2 The work of the Overview and Scrutiny Committee leads to reports and recommendations which advise the Executive and the Council as a whole on improvements to its policies, budget and service delivery.

1.5.3 The Overview and Scrutiny Committee also acts as the mediator for call-ins. A call-in is when a minimum of four members argue that a decision which has been made by the Executive, but not yet implemented, is not the best option. The Committee's role is to consider whether the Executive decision will lead to the best practicable outcome.

1.5.4 The Overview and Scrutiny Committee may recommend that the Executive reconsiders the decision. The Committee may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

## **1.6 The Council's Staff (Officers)**

1.6.1 The council has staff (referred to as 'Officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the council acts within the law and uses its resources wisely. A protocol governs the relationships between officers and Members of the Council which is set out in Section 17 of this constitution.

## **1.7 Citizens' Rights**

1.7.1 Citizens have a number of rights in their dealings with the council. These are set out in more detail in Section 3e. 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.

1.7.2 Citizens have the right to:

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

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

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

## **1.8 Admission to meetings**

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

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

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

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

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

1.8.6 Decisions of the Executive and Key Decisions taken by Officers must be recorded. The record must also detail the reasons

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

## **Glossary**

The Constitution contains references which may be defined as follows:

|                          |                                                                                                                                                                                                                                                                                                     |
|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Agent</b>             | A person or organisation acting on behalf of the council or on behalf of another organisation.                                                                                                                                                                                                      |
| <b>Approved Duties</b>   | Those meetings, events, etc, approved for the purposes of claiming travel and subsistence allowances.                                                                                                                                                                                               |
| <b>Award Criteria</b>    | The criteria by which a successful quotation or tender is to be selected.                                                                                                                                                                                                                           |
| <b>Award Procedure</b>   | The procedure for awarding a contract.                                                                                                                                                                                                                                                              |
| <b>Background papers</b> | 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.                                                                                                                                         |
| <b>Best Value</b>        | The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the council. See also Value for Money. |
| <b>Bidder</b>            | Any person, firm or organisation who asks to be or is invited to submit a Quotation or Tender.                                                                                                                                                                                                      |
| <b>Budget</b>            | The revenue and capital budget in any one year.                                                                                                                                                                                                                                                     |

|                                 |                                                                                                                                                                                                                              |
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| <b>Call-in</b>                  | The process by which Scrutiny Members may challenge or require further information on an Executive decision.                                                                                                                 |
| <b>Chair of Committee</b>       | The elected Chair or in his or her absence, the Vice Chair. The term may also apply to an elected Member elected to preside in the absence of the Chair and Vice Chair.                                                      |
| <b>Chairman of Council</b>      | The Member elected by Council annually to preside over meetings of the Council and to act as the ceremonial head of the Council.                                                                                             |
| <b>Chief Officer</b>            | As detailed at Section 11 of the Constitution, the Chief Executive and statutory officers                                                                                                                                    |
| <b>Civic Year</b>               | The period between annual meetings of the Council, usually held in May.                                                                                                                                                      |
| <b>Clarification</b>            | A request for information from a bidder during a procurement process. The information, if supplied, is to be provided to all Bidders. Alternatively additional information to be supplied to all Bidders during the process. |
| <b>Clear Days</b>               | 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).                                                               |
| <b>Committee</b>                | A formal decision-making body which has functions delegated to it by either Council or the Executive.                                                                                                                        |
| <b>Confidential Information</b> | 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.

**Consultant**

Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the council has no ready access to officers with the skills, experience or capacity to undertake the work.

**Co-opted Member**

A non-elected person appointed to a committee, sub-committee or panel on a non-voting basis.

**Contract Award**

Process by which the successful bidder and the unsuccessful bidders are advised of the outcome of the evaluation.

**Contract Register**

The register to be kept and maintained by the Procurement Manager recording details of all Renewable Contracts entered into by the council.

**Contracting Authority**

An authority that has established a Framework Agreement that is available for use by other organisations within the Public Sector.

**Contracting Decision**

Any decisions which impacts on either the procedure or the outcome of the process to include:

- withdrawal of Invitation to Tender

- whom to invite to submit a Quotation or Tender
- shortlisting
- award of contract
- termination of a contract

|                                        |                                                                                                                                                                                                                                   |
|----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Council</b>                         | The principal decision-maker.                                                                                                                                                                                                     |
| <b>Declaration of Interests</b>        | The requirement for Members to give notice of their interests in matters related to an item under consideration (see also <b>Disclosable Pecuniary Interests</b> and <b>Non-Pecuniary Interests</b> ).                            |
| <b>Delegated Powers</b>                | The description of the level of authority delegated to a committee, sub-committee, panel, Executive Member or Officer.                                                                                                            |
| <b>Deputy Leader of the Council</b>    | The elected Member appointed by the Leader as Deputy Leader for a four year term.                                                                                                                                                 |
| <b>Disclosable Pecuniary Interests</b> | The requirement for Members to register and declare any financial or beneficial interests as defined in Section 14.                                                                                                               |
| <b>EU Procedure</b>                    | The procurement procedure required to be followed by the EU where the Total Value exceeds the EU Threshold.                                                                                                                       |
| <b>EU Threshold</b>                    | The contract values at which the EU public procurement directives apply, as amended from time to time.                                                                                                                            |
| <b>EU Treaty Procedures</b>            | The principles enshrined within the various Treaties. Although these apply directly to all procurement activity above the E U Threshold, they should apply, as a matter of good practice, to all procurement regardless of value. |

|                                  |                                                                                                                                                                                                                                                                        |
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| <b>European Economic Area</b>    | The members of the European Union and Norway, Iceland and Liechtenstein.                                                                                                                                                                                               |
| <b>Executive</b>                 | The decision-making body of the Council with responsibility for Executive functions.                                                                                                                                                                                   |
| <b>Executive Members</b>         | Those elected Members appointed to the Executive by the Leader.                                                                                                                                                                                                        |
| <b>Exempt Information</b>        | As defined by Section 100(1) of the Local Government Act 1972, this includes a number of different categories of information, under which the council is entitled to withhold certain reports from the public (see Section 12 – Access to Information Procedure Rules) |
| <b>Extraordinary Meeting</b>     | A meeting of the Council convened for specific purposes.                                                                                                                                                                                                               |
| <b>Financial Procedure Rules</b> | The council's financial regulations incorporated within the Constitution (see Section 9).                                                                                                                                                                              |
| <b>Financial Vetting</b>         | The process by which officers appointed by the Head of Strategic Finance and Property to review the information supplied by the Bidder or Bidders to establish their financial suitability.                                                                            |
| <b>Five Day Rule</b>             | Under the Local Government Act 1972 (as amended by the Access to Information 1985) Act, the council is required to give notice and make available, the agenda and associated papers for five clear days.                                                               |
| <b>Formal Quotation</b>          | The process of obtaining a Quotation using the e-procurement portal. Officers can either invite a number of suppliers to submit Bids or alternatively, use the open process                                                                                            |

whereby the project is advertised generally and any supplier can submit a bid.

**Forward Plan**

The published document which provides the statutory notice of the intention by the Executive, an Executive Member or an Officer to make a key decision. The document also sets out other scheduled major decisions.

**Framework Agreement**

An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged. Examples of Framework Agreements include those awarded by the Government Procurement Service and others.

**Government Procurement Agreement**

The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European Economic Area are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.

**Government Procurement Service**

The Government Procurement Service (formerly Office of Government Commerce Buying Solutions).

**Group Leader**

The Member identified by a political group as its leader by notice in writing.

**Head of Paid Service**

The Officer designated as such under Section 4 of the Local Government and Housing Act 1989 (see Section 11).

**Hearing Panel**

The quasi-judicial body responsible for

determining licensing matters referred to it (see Section 6).

**Invitation to Tender**

Invitation to Tender documents in the form required by the Contract Procedure Rules.

**Key Decision**

As defined by the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the most significant decisions to be taken by the Executive. A more specific definition can be found in Section 3b.

**Leader of the Council**

The elected Member elected by Council as leader for a four year term.

**Licensing Authority**

The Council exercising its duties and responsibilities under the Licensing Act 2003.

**Local Choice Functions**

As detailed in Part 3A of the constitution, the description of responsibility for local choice functions under Section 13(3)(b) of the Local Government Act 2000 to the Council, the Executive, regulatory committees and Officers.

**Member**

An elected councillor (referred to as Member) of the Council.

**Members' Allowances Scheme**

The scheme approved by Council on recommendation from the independent remuneration panel for the payment of allowances to Members.

**Members' Code of Conduct**

The Code adopted by the Council which describes the conduct required of elected or co-opted Members of the Council.

**Monitoring Officer**

The Officer designated as such under

Section 5 of the Local Government and Housing Act 1989 or his/her deputy (see Section 11).

**Nominated Suppliers and Sub-Contractors**

Those persons specified in a main contract for the discharge of any part of that contract.

**Non-commercial considerations**

Considerations which may either be brought to the attention of an officer and may be within his or her own knowledge but have no significance when evaluating a potential bidder.

**Non-Key Decisions**

Executive decisions taken by the Executive, Executive Committees, Executive Members and Officers on less significant matters in accordance with the specified procedure (see Section 3b).

**Non-Pecuniary Interests**

The requirement for Members to register and declare any non-financial interests as defined in Section 14.

**Officers**

The employees of the council.

**Officers' Code of Conduct**

The Code adopted by the Council which describes the conduct required of its Officers.

**Ordinary Meeting**

A meeting of the Council included in the approved calendar of meetings.

**Outside Bodies**

External organisations which have invited the council to nominate representative(s) to serve on their management body.

**Panel**

A formal group of Members with functions delegated by a Committee or a Sub-Committee.

|                                         |                                                                                                                                                                                                                      |
|-----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Party Whip</b>                       | The Member within a political group appointed by that group to manage internal party discipline and activities.                                                                                                      |
| <b>Policy Framework</b>                 | The plans and strategies which together make up the overarching policy direction determined by Council (see Section 3).                                                                                              |
| <b>Political Group</b>                  | As defined in the Local Government (Committees and Political Groups) Regulations 1990, any group of at least two Members who have notified the council in writing that they wish to be treated as a political group. |
| <b>Portfolio Holder</b>                 | Otherwise known as Executive Members, those elected Members appointed to the Executive with defined areas of responsibility called portfolios.                                                                       |
| <b>Post Tender Negotiation</b>          | In limited circumstances negotiations can take place with Bidders after the evaluation process has been completed and prior to the Contract Award.                                                                   |
| <b>Procurement Strategy</b>             | The document setting out the council's corporate approach to procurement and key priorities.                                                                                                                         |
| <b>Professional Buying Organisation</b> | An organisation established by one or more authorities for the sole purpose of setting up Framework Agreements thereby enabling collaborative purchasing.                                                            |
| <b>Proper Officer</b>                   | The authorised Officer under statutory enactments (see Section 11 – designation of Proper Officers).                                                                                                                 |
| <b>Quasi-Judicial</b>                   | 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.

|                              |                                                                                                                                                                        |
|------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Quick Quotation</b>       | A simplified Quotation process whereby a number of Quotations are sought from at least 3 suppliers without using the e-procurement portal.                             |
| <b>Quorum</b>                | The minimum number of Members required to be present for a meeting to be properly convened.                                                                            |
| <b>Quotation/Quote</b>       | A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender). See also Quick Quotation and Formal Quotation.               |
| <b>Regulatory Committees</b> | Those Committees of the Council falling outside the executive arrangements that are charged with regulatory functions, such as development management, licensing, etc. |
| <b>Relevant Contract</b>     | Contracts to which the Contract Procedure Rules apply.                                                                                                                 |
| <b>Renewable Contract</b>    | Contracts which are for repeatable purchases of goods or services or works and are not one-off purchases.                                                              |
| <b>Request for Quotation</b> | Request for Quotation documents in the form required by the Contract Procedure Rules.                                                                                  |
| <b>Scrutiny</b>              | A process of holding the Executive to account.                                                                                                                         |
| <b>Section 151 Officer</b>   | The Officer designated as such under Section 151 of the Local Government Act 1972 (see Section 11).                                                                    |

|                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Standard Terms and Conditions</b>                                               | The terms and conditions agreed by the council as being applicable in all contracts as an alternative to either bespoke terms and conditions or the terms and conditions of the other party to the contract or agreement.                                                                                                                                                                                                                                                |
| <b>Statutory Undertakers</b>                                                       | The various companies and agencies with legal rights to carry out certain development and highways works, such as utilities and telecoms.                                                                                                                                                                                                                                                                                                                                |
| <b>Sub-Committee</b>                                                               | A formal decision-making body with functions referred or delegated to it by a committee.                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Task and Finish Group</b>                                                       | An informal group of Members established by a Scrutiny Committee to examine a specific issue.                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Tender</b>                                                                      | A candidate's proposal submitted in response to an Invitation to Tender.                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Terms of Reference</b>                                                          | The description of what a committee, sub-committee or panel may concern itself with.                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Total Value</b>                                                                 | The whole of the value or estimated value (in money or equivalent value) for a single procurement or disposal.                                                                                                                                                                                                                                                                                                                                                           |
| <b>Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)</b> | The regulations that apply where responsibility for the delivery of works or services for the council is transferred from one organisation (for example a private contractor or local authority in-house team) to another (for example, following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such |

transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer.

**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.

**Value for Money**

Value for money is not the lowest possible price; it combines goods or services that fully meet the council's needs, with the level of quality required, delivery at the time the council needs it, and at an appropriate price.

**Ward**

A geographical area of the District represented by 1 – 3 elected Members.

**Written Notice**

Unless otherwise stated, a notice given in writing or electronically.

## **Section 2 – The Purpose, Interpretation and Suspension of the Constitution**

### **2.1 Powers of the council**

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

### **2.2 The Constitution**

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

### **2.3 Purpose of the Constitution**

2.3.1 The council is committed to serving the aspirations and the needs of the whole community of East Hertfordshire with efficient and cost effective services. It will promote economic, environmental and social wellbeing whilst protecting the District's heritage of market towns, villages and countryside.

2.3.2 The council believes that local government should never be onerous or burdensome and should always act to empower individuals and their communities. All processes operated by the Council will permit access by individuals affected whenever possible and be designed to be equitable and fair.

2.3.3 The purpose of the Constitution is to:

- (a) enable the council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
  
- (b) support the active involvement of citizens in the process of local authority decision-making;

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

## **2.4 Interpretation and Review of the Constitution**

- 2.4.1 Where the Constitution permits the council to choose between different courses of action, the council will always choose that option which it thinks is closest to the purposes stated above.
- 2.4.2 Consequential amendments will be made to the electronic version of the Constitution as soon as reasonably practicable and published on the council's website to provide transparency.
- 2.4.3 The council will monitor and evaluate the operation of the Constitution as set out in Section 2.

## **2.5 Duty to monitor and review the Constitution**

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

## **2.6 Changes to the Constitution**

### 2.6.1 Approval

Except as provided in 2.6.2 below, changes to this Constitution will only be approved at a meeting of Full Council after consideration of the proposal by the Monitoring Officer.

A vote at Council to change the Constitution should be passed by a simple majority of those present and voting.

### 2.6.2 Legislative Changes

Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be made so as to comply with any legislative provision. Such amendments shall take effect when the Monitoring Officer decides or the legislation (where relevant) so provides. Such changes shall be reported to the next Full Council meeting.

### 2.6.3 Minor Changes

If, in the reasonable opinion of the Monitoring Officer or the Chief Finance Officer, a change is;

- (a) required to be made to remove any inconsistency, ambiguity, typographical or other such error, changes to staffing structures, job descriptions or changes in terminology; or
- (b) required to be made so as to put into effect any decision of the Council or its Committees or the Executive; or
- (c) to amend the Constitution to implement decisions of the Leader in relation to the delegation of executive functions to the Executive Members; or
- (d) requested only for the practical purpose, in order to ensure the proper administration of the Council,

the Monitoring Officer or the Chief Finance Officer may make such a change

- 2.6.4 Any change made under paragraph 2.6.3(d) shall come into force with immediate effect but shall be referred to Full Council as soon as is reasonably practicable and shall only continue to have effect thereafter if agreed by Full Council.
- 2.6.5 Changes made under 2.6.3 must be notified to all Members at the next meeting of the Full Council.
- 2.6.6 If it is proposed to a change from the existing Leader and Cabinet form of executive to another form of executive, the council must take reasonable steps to consult with local electors and other interested persons in the District when drawing up proposals. If the proposed new form of executive involves an elected mayor, the council must also hold a referendum.

## **2.7 Suspension of the Constitution**

### **2.7.2 Limit to suspension**

The Chapters of this Constitution may not be suspended. Any rules of procedure, except those required by law, may be suspended to the extent permitted within those rules and the law.

### **2.7.3 Procedure to suspend**

A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Members entitled to be present is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Section 2.

## **2.8 Interpretation of the Constitution**

### **2.8.2 The ruling of the Chair (or in their absence the Vice Chair),**

having received legal advice, as to the construction or application of this Constitution or as to any proceedings of the Council, shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution.

2.8.2 In all other situations, the Monitoring Officer will determine the interpretation and application of the Constitution.

## **2.9 Maintenance of the Constitution**

2.9.2 The Monitoring Officer will ensure that there are periodic operational reviews of the Constitution.

2.9.3 The Monitoring Officer will also ensure that an up-to-date version of this Constitution is maintained and that it is widely available for consultation by Members, staff and the public, as set out in paragraph 2.10 below.

## **2.10 Publication**

2.10.2 On the Member first being elected to the Council, the Monitoring Officer will make an electronic copy of this Constitution available to him or her once that Member makes his or her declaration of acceptance of office.

2.10.3 The Monitoring Officer will ensure that copies are available for inspection on the council's website in a form that can be downloaded and that copies are available for inspection at council offices and can be purchased by members of the local press and the public on payment of a reasonable fee.

## Section 3 – Full Council

### 3.1 Meaning

The Council means every Member of East Hertfordshire District Council meeting together formally. By law, there are some things that only the Council has the power to do, such as setting the council's budget and the council's share of the Council Tax and approving a number of key plans and strategies, which together form the Policy Framework (listed below). It is responsible for all of the functions which are not the responsibility of the Executive. It will carry out some functions itself, but others will be delegated to Committees or named Officers.

### 3.2 Policy Framework and budget

3.2.1 **Policy Framework:** The Policy Framework is composed of the following plans, policies and strategies with the following titles or reasonably taken to be the following even if they have different titles:

- (a) Anti-Fraud and Anti-Corruption Policy;
- (b) Community Grants policies;
- (c) Corporate Equalities Policy;
- (d) Corporate Strategic Plan;
- (e) Crime and Disorder Reduction Strategy, including Community Safety Strategy;
- (f) Fees and Charges Strategy;
- (g) Gambling Statement of Principles;
- (h) Health and Wellbeing Strategy;
- (i) Housing Strategy, Allocations Scheme, Tenancy Strategy, Homelessness Strategy, and Private Sector

Housing Assistance Policy;

- (j) ICT Strategy;
- (k) Licensing Statement of Policy;
- (l) Parking policies;
- (m) Pay Policy Statement;
- (n) The Development Plan (including the Local Plan and Neighbourhood Plans), Supplementary Plans, Conservation Area Character Appraisals and final allocated site Masterplans (other than masterplans that form part of discharging a planning condition);
- (o) Safeguarding Policy;
- (p) Taxi policies, including the Driver Suitability Policy;
- (q) Treasury Management Strategy; and
- (r) Whistleblowing Policy.
- (s) Council Tax Reduction Scheme

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

- (a) revenue budget;
- (b) capital programme;
- (c) medium term financial strategy (covering revenue and capital);
- (d) prudential indicators including borrowing limits; and
- (e) treasury management and investment strategy.

3.2.3 The annual budget includes:

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

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

### **3.3 Functions of the Council**

3.3.1 Only the Council may exercise the following functions:

- (a) adopting and changing the Constitution in line with Section 2;
- (b) approving and adopting the Policy Framework;
- (c) approving and adopting the council's annual Budget;
- (d) considering a referendum on Council Tax increases and associated matters;
- (e) approving for the purposes of public consultation draft proposals associated with the preparation of, alterations to, or the replacement of the plans and strategies which together comprise the District Plan;
- (f) subject to the urgency procedure set out in the Budget and Policy Framework Procedure Rules in Section 13 of the Constitution, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or budget where the decision maker is minded to make it in a manner which would be contrary to

the Policy Framework or contrary to or not wholly in accordance with the budget;

- (g) electing the Leader;
- (h) removing the Leader by resolution and electing a replacement in accordance with Section 4;
- (i) determining the political balance of the Council and the allocation of seats in accordance with it or by unanimous vote in some other way as the Council sees fit;
- (j) deciding which Committees of the Council to establish for the Civic Year and the size and Terms of Reference for those committees;
- (k) with regard to Committees of the Council, deciding the allocation of seats and substitutes to Political Groups in accordance with the political balance rules;
- (l) receiving, or arranging the delegation of, nominations of Members to serve on each Committee of the Council and any outside body for which a new appointment or re-appointment is required;
- (m) considering recommendations from the Independent Remuneration Panel and adopting a Members' Allowance Scheme;
- (n) appointing Members to Outside Bodies unless this is a function of the Executive or has been delegated by the Council;
- (o) the ratification of the appointment or notice of dismissal to the Head of Paid Service, Chief Finance Officer or Monitoring Officer, prior to such action being taken (and in respect of dismissal, having taken into account any advice, views or recommendations, conclusions of any investigation from the Panel and representations of the Officer concerned);
- (p) any electoral matters requiring a decision by the

Council including the appointment of an Electoral Registration Officer and a Returning or Acting Returning Officer (to act in connection with Parliamentary, District, County, Police Commissioner, and referenda);

- (q) conferring the title of Honorary Alderman or the Honorary Freedom of the District;
- (r) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills;
- (s) all Local Choice Functions set out in paragraph 3.42 of this Section which the Council decides should be taken by itself rather than the Executive;
- (t) review and agree proposals on polling districts, polling places and polling stations, district boundaries, electoral Wards and the number of District Councillors;
- (u) to consider, make, amend or withdraw compulsory purchase orders;
- (v) appointing the Chairman and Vice-Chairman of the Council;
- (w) agreeing an Annual Schedule of meetings;
- (x) changing the name of the district; and
- (y) all other matters which, by law, must be reserved to the Council.

### **3.4 Council meetings**

3.4.1 There are three types of Council meeting:

- (a) the Annual Meeting;
- (b) Ordinary Meetings; and
- (c) Extraordinary Meetings.

3.4.2 For all purposes of the Constitution the term “meeting” is not

limited in meaning to a meeting of persons all of whom, or any of whom, are present in the same place and may be wholly or partly through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming provided such remote means are legally permissible under relevant legislation.

- 3.4.3 Each type of Council meeting will be conducted in accordance with the Council Procedure Rules at paragraphs 3.6 – 3.34 of this Constitution.

### **3.5 Responsibility for functions**

- 3.5.1 The Council will maintain the tables setting out the responsibilities for the Council's functions which are not the responsibility of the Executive.

### **3.6 Chairman of the Council**

- 3.6.1 The Chairman and Vice Chairman will be elected annually by the Council.
- 3.6.2 Neither the Chairman nor the Vice Chairman may be a member of the Executive.
- 3.6.3 The Chairman and in their absence the Vice Chairman have the following roles.

### **3.7 Ceremonial role**

- 3.7.1 The Chairman will:
- (a) chair meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community;
  - (b) uphold and promote the purposes of the Constitution and interpret the rules of procedure at Council meetings;
  - (c) ensure that Council meetings are a forum for the debate of matters of concern to the community and one of the

places at which Members who are not on the Executive are able to hold the Executive to account; and

- (d) exercise a casting vote in the event of a tie at a Council meeting with complete freedom of conscience.

3.7.2 The Chairman is the ceremonial head of the council and will be its representative at civic and ceremonial events. They must maintain an apolitical stance, especially when chairing Full Council meetings.

3.7.3 This ceremonial role includes:

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

# Decision Making

## **3.33 Responsibility for decision making**

3.33.1 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 specific decisions relating to particular areas or functions.

## **3.34 Principles of decision making**

3.34.1 All decisions of the council will be made:

- (a) after due consideration of the interests of residents and other stakeholders;
- (b) proportionately, that is, the action must be proportionate to the desired outcome;
- (c) after due consultation and the taking of professional advice;
- (d) with respect for human rights and having regard to the council's public sector equality duty;
- (e) with a presumption in favour of openness;
- (f) with clarity of aims and desired outcomes;
- (g) such that they would be considered reasonable and rational based on sound judgment, that is, all relevant considerations must be fully taken into account in reaching the decision and irrelevant considerations disregarded;
- (h) in the case of 'Quasi-Judicial' decisions, for example a decision as to whether or not to grant a licence, with a fair hearing conducted in accordance with the rules of natural justice afforded to the person who is the

subject of the decision;

- (i) in accordance with the Policy Framework;  
in compliance with council's schemes of delegation,  
financial rules and instructions relating to contracts;  
and
- (j) with an accompanying explanation of what options  
were considered and the reasons for the decision in  
accordance with the Local Authorities (Executive  
Arrangements) (Meetings and Access to Information)  
(England) Regulations 2012.

### **3.35 Types of decision**

3.35.1 **Decisions reserved to Council:** Decisions relating to the Budget and Policy Framework functions and those to be made by Council listed in Section 3 will be made by Council and not delegated.

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

- (a) any matter listed in paragraphs 3.2 and 3.3 of this Constitution as these are matters reserved for Council to decide; or
- (b) a local choice function which has not been designated to the Executive in the table in Section 3c of this Constitution; or
- (c) a non-executive function which the Council has delegated to a committee of the Council to determine, as covered in Sections 5 to 8 of this Constitution, or by an officer. These decisions are further defined in paragraph 3.35.5 below.

3.35.3 Executive decisions may be taken by:

- (a) the Executive meeting together; or
- (b) individual Executive Members in line with their portfolios and delegations listed in Section 4 of this Constitution;
- (c) a Committee of the Executive in line with any authority delegated to the Committee; or
- (d) by an Executive Member or officer if authority to make that decision has been specifically delegated by the Executive or the Leader of the Council.

3.35.4 A decision taker may only make an executive decision in accordance with the requirements of the Executive Procedure Rules set out in Section 4 of this Constitution.

3.35.5 **Other decisions.** Decisions which are not executive decisions nor reserved to Council shall be taken by:

- (a) Council;
- (b) a Committee to which Council has delegated power to act on its behalf; or
- (c) specific Officers to whom powers have been delegated. In reaching such decisions, Officers to whom powers have been delegated may consult the Chair of the relevant Committee where to do so is expedient, and shall do so where an earlier decision so requires.

3.35.6 **Key Decisions.** A Key Decision is an executive decision which is likely to:

- (a) result in new expenditure, income or savings of more than £200,000 in relation to the council's revenue or capital budget, this being deemed significant having regard to the council's overall budget; or
- (b) be significant in terms of its effects on communities

living or working in an area consisting of two or more Wards.

3.35.7 Provisions for taking Key Decisions in cases of urgency where they have not been included in the decisions plan are set out in the Access to Information Procedure Rules in Section 12 of this Constitution.

3.35.8 **Non-Key Decisions.** A Non-Key Decision is an executive decision that does not meet either criterion of a Key Decision as laid out above.

### **3.36 Referral of decision making to higher authority**

3.36.1 An individual or body to whom power to make a decision has been delegated may decline to make that decision and refer it for decision by the relevant Committee, Executive Member, the Leader or by Council as appropriate

### **3.37 Decision making**

3.37.1 Subject to paragraph 3.38 below, making and recording decisions will be subject to the following provisions in this Constitution:

- (a) the Council meeting will follow the Council Procedures Rules set out in Section 3 of this Constitution when considering any matter;
- (b) the Executive will follow the Executive Procedures Rules set out in Section 4 of this Constitution when considering any matter;
- (c) the Overview and Scrutiny Committee will follow the Scrutiny Procedures Rules set out in Section 5 of this Constitution when considering any matter and recording decisions;
- (d) other Council and Executive Committees and Sub-Committees will follow those parts of the Council

Procedures Rules set out in Section 3 of this Constitution as apply to them; and

- (e) Officers making key or non-key executive decisions under delegated authority will follow those parts of the Executive Procedures Rules set out in Section 4 of this Constitution as are applicable
- (f) Officers making other decisions shall consult as required under the delegated authority and shall record the decision on an Openness in Local Government form.

### **3.38 Quasi-Judicial decision making by Council bodies**

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

### **3.39 Party Whip**

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

3.39.2 There shall be no Party Whip at meetings of:

- (a) the Development Management Committee;
- (b) the District Planning Executive Panel;
- (c) the Overview and Scrutiny Committee;

- (d) the Audit and Governance Committee and any Sub-Committee;
- (e) the Licensing Committee, and any Sub-Committee, when it is determining licences and conducting hearings; and
- (f) any other Committees where the Committee meets to determine applications, hearings, appointments or acts in any Quasi-Judicial matter.

# Members of the Council

## **3.41 Composition and eligibility**

- 3.41.1 Composition. The Council will consist of 50 elected Members. One or more Members will be elected by the voters of each Ward in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State.
- 3.41.2 Eligibility. To be eligible to stand as a councillor, a person must be registered to vote in the district, or live or work there.
- 3.41.3 A person is disqualified from standing for election if they:
- (a) as defined by the Local Government and Housing Act 1989, hold a paid office under the council or a politically restricted post; or
  - (b) are bankrupt; or
  - (c) have been sentenced to a term of imprisonment (whether suspended or not) of not less than three months, without the option of a fine, during the five years preceding the election; or
  - (d) are disqualified under any enactment relating to corrupt or illegal practices.

## **3.42 Election and terms of Members**

- 3.42.1 The regular election of Members under this Constitution will be held on the first Thursday in May every four years beginning in 2019. The terms of office of Members will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

## **3.43 Roles and functions of all Members**

3.43.1 All Members will:

- (a) represent their communities and bring their views into the Council's decision-making process, that is, become the advocate of and for their communities;
- (b) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (c) balance different interests identified within the Ward and represent the Ward as a whole;
- (d) be involved in decision-making;
- (e) participate in the governance of the Council;
- (f) be available to represent the Council on other bodies; and
- (g) maintain the highest standards of conduct and ethics.

**3.44 Rights and duties**

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

3.44.2 Members will not make public information which is confidential or exempt

3.44.3 For these purposes, "confidential" and "Exempt" information are defined in the Access to Information Rules in Section 12 of this Constitution.

**3.45 Conduct**

3.45.1 Members will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set

out in Sections 14 and 17 of this Constitution.

### **3.46 Allowances**

- 3.46.1 Members will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Section 20 of this Constitution.

# Citizens and the council

## 3.47 Citizens' rights

- 3.47.1 Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Section 12 of this Constitution.
- 3.47.2 Voting: Citizens on the electoral roll for the area have the right to vote.
- 3.47.3 Petitions: Citizens on the electoral roll for the area have the right to sign a petition to request a referendum for an elected mayor form of Constitution.
- 3.47.4 Information: Except where confidential or Exempt information is likely to be disclosed, citizens have the right to:
- (a) attend meetings of the Council and its Committees
  - (b) attend meetings of the Executive
  - (c) find out from the council's publications what Key Decisions will be taken by the Executive and when;
  - (d) see reports and Background papers, and any records of decisions made by the Council and the Executive except those which are Exempt; and
  - (e) inspect the council's accounts and make their views known to the external auditor.
- 3.47.5 Participation: Citizens have the right to participate in 'Questions by the Public' at Ordinary Meetings of the Council and contribute to investigations by Scrutiny Committees.

3.47.6 Complaints: Citizens have the right to complain to:

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

### **3.48 Citizens' responsibilities**

3.48.1 Citizens must not be violent, abusive or threatening to Members or Officers and must not willfully harm things owned by the council, Members or Officers. When attending meetings, citizens will be expected to comply with the decisions of the Chair of that meeting.

## **Section 4 – The Executive**

### **4.1 Role**

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

### **4.2 Form and composition**

- 4.2.1 The Executive will be chaired by the Leader. It will consist of the Leader and no fewer than two and no more than nine other Members appointed by the Leader, one of whom shall be designated Deputy Leader and all of whom will be known as Executive Members.
- 4.2.2 Only Members will be appointed to the Executive. There will be no co-optees, no deputies and no substitutes for Executive Members. The Leader and Executive Members may not be members of any Scrutiny Committee. The Chairman and Vice Chairman of the Council may not be members of the Executive.

### **4.3 The Leader**

- 4.3.1 The Leader will be a Member elected to the position by the Council at its first annual meeting following the local government elections. The Leader will hold office until:
- (a) the next post-election annual meeting of the Council; or
  - (b) they resign from the office of Leader; or
  - (c) they are removed from office by ordinary resolution on notice of the Council; or
  - (d) they are no longer a Member of the Council.
- 4.3.2 When a vacancy arises in the office of the Leader, the Council shall fill the vacancy at the next Ordinary Meeting of the

Council, at an Extraordinary Meeting summoned for that purpose or, if the vacancy occurs as a result of the removal of the Leader by resolution of the Council, at the meeting at which that resolution was passed or a subsequent meeting. The Member appointed to fill the vacancy shall hold office for the remainder of the original term, subject to 4.3.1 above.

4.3.3 The Leader must appoint another member of the Executive as Deputy Leader to act when the Leader is unable to act or the office of Leader is vacant. The Leader may, if they think fit, remove the Deputy Leader from office.

4.3.4 The Deputy Leader shall hold office until the end of the Leader's term of office unless they are removed by the Leader, resigns as Deputy Leader or ceases to be a Member of the Council.

#### **4.4 Other Executive Members**

4.4.1 The Leader will usually announce the Executive Members at the annual meeting of the Council. Appointments, re-appointments and the removal of Executive Members announced in this way will take immediate effect. If the announcement is not made at the annual meeting, the Leader will give written notice to the Monitoring Officer of the appointments of Executive Members as soon as practicable after the annual meeting and the re-appointments, appointments and removals made in this way will take effect two working days after receipt of the notice by the Monitoring Officer.

4.4.2 The Leader may also appoint Executive Members during the Civic Year to fill any vacancy or increase the size of the Executive (up to the maximum number set out in 4.2.1 above) by giving written notice to the Monitoring Officer. These appointments shall take effect two working days after receipt of the notice by the Monitoring Officer.

4.4.3 Executive Members shall hold office until:

(a) they resign from office; or

- (b) they are no longer Members of the Council; or
- (c) they are removed by means of the Leader's notification at or as soon as practicable after the next annual meeting; or
- (d) they are removed from office by the Leader giving written notice of the removal to the Monitoring Officer. The removal will take effect two working days after receipt of the notice by the Monitoring Officer.

4.4.4 If for any reason the Leader is unable to act or the office of Leader is vacant and the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the Executive must act in the Leader's place or must arrange for an Executive Member to act in the Leader's place.

## **4.5 Functions of the Executive**

4.5.1 The role of the Executive is to:

- (a) make Key and Non-Key Decisions and published in the Forward Plan;
- (b) formulate the annual budget and Policy Framework for submission to Council in accordance with the Budget and Policy Framework procedure rules in Section 13 of the Constitution;
- (c) implement the approved Budget and Policy Framework;
- (d) determine recommendations and other matters referred to it by Committees, Sub-Committees or the Council;
- (e) carry out all of the functions which by law the Executive must carry out or it has chosen to carry out and which have not been delegated elsewhere; and
- (f) ensure the publication of, and to consider, the plan of items likely to come before it for decision at least 28

days before the decision is due to be made.

4.5.2 The Executive may carry out its functions:

- (a) itself and only by itself if so determined by law;
- (b) by delegating power to an individual member of the Executive, to be exercised in accordance with the rules set out in Section 4 of this Constitution;
- (c) by delegating power to an officer, who shall exercise that power in accordance with the Scheme of Delegation to Officers contained in Section 10 of the Constitution; or
- (d) by delegating power to a joint committee, area committee or another local authority.

4.5.3 A list of portfolio responsibilities will be maintained by the Leader and will set out the responsibilities of individual members of the Executive. The full list is at paragraph 4.26.2 of this section. In addition the responsibilities of Officers and joint arrangements for the exercise of particular Executive functions will be maintained. The Leader is empowered to amend the portfolios during the Civic Year.

## **4.6 Meetings of the Executive**

4.6.1 The Executive will hold public meetings as frequently as is required for the effective discharge of its functions on dates and at times agreed by the Leader. Meetings will be conducted in accordance with the Executive Procedure rules set out from paragraph 4.7 of the Constitution. Meetings will usually be held at the council's offices in Hertford but can be held at other locations determined by the Leader or through any other means as allowed by law and determined by the Leader.

4.6.2 To ensure it is briefed and/or consulted upon about its functions, the Executive may hold other informal (not public) meetings as are necessary for it to carry out its work

effectively. To ensure transparency and facilitate good scrutiny, matters discussed at these meetings that are intended to be put to the Executive for decision will, unless a decision is required urgently, be included in the Forward Plan.

## **4.7 Executive Procedure Rules**

### **4.7.1 Executive functions**

The Executive is the council's executive body and is responsible for carrying out those functions which by law or under this Constitution are designated as 'executive functions'.

### **4.7.2 The Leader decides how the executive functions shall be discharged. This may be 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.

### **4.7.3 Delegation by the Leader**

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by them for inclusion in the Council's scheme of delegation at Section 4 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, and wards of the people appointed to the Executive by the Leader;

- (c) the name, 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 committees of the Executive as the Leader appoints and the names of Executive Members appointed to them;
- (f) the nature and extent of any delegation of executive 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, in addition to delegations already listed within this Constitution, with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

## **4.8 Further delegation of executive functions**

4.8.1 Where the Executive, a committee of the Executive or an individual member of the Executive is responsible for an executive function, they may further delegate the exercising of that executive function to an officer or via joint arrangements unless where disallowed by law.

4.8.2 Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

## **4.9 The council's scheme of delegation and executive functions**

- 4.9.1 The council's scheme of delegation will be subject to adoption by the Council and the Executive.
- 4.9.2 The Leader may amend the scheme of delegation relating to Executive functions at any time during the year by giving written notice to the Monitoring Officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation and whether it entails the withdrawal of delegation from any person, body, committee or the Executive as a whole. The appropriate amendments to the Constitution will be made by the Monitoring Officer. This will have immediate effect and the change(s) will be referred to Council within the Constitution.
- 4.9.3 When the Executive seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when the Leader has served it on the Chair of the committee.

#### **4.10 Conflicts of Interest**

- 4.10.1 Where any or all members of the Executive has or have a conflict of interest this should be dealt with as set out in the council's Code of Conduct for Members in Section 14 of this Constitution.
- 4.10.2 If the exercise of an executive function has been delegated to a committee of the Executive, an individual Member or an officer, and a conflict of interest arises, then the function will be exercised in the first instance by the person or body who made the delegation or otherwise if so specified in the council's Code of Conduct for Members in Section 14 of this Constitution.

#### **4.11 Executive meetings**

- 4.11.1 The Executive will meet at least five times a year at times to be agreed by the Leader. The Leader has the ability to cancel meetings of the Executive.
- 4.11.2 The Executive shall meet at the council's offices at Wallfields, Pegs Lane, Hertford, Hertfordshire or another location to be agreed by the Leader.

4.11.3 Notice of the dates and times of meetings, and their agendas, will be published in accordance with the Access to Information Procedure Rules.

#### **4.12 Quorum**

4.12.1 The quorum for a meeting of the Executive shall be a majority of the members of the Executive. The quorum of any committee of the Executive shall be a majority of the Members appointed to that committee.

#### **4.13 Decisions taken by the Executive**

4.13.1 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 Section 12 of the Constitution.

4.13.2 Where an executive decision is 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.

#### **4.14 Executive meetings**

4.14.1 The Leader will preside at any meeting of the Executive or its committees at which they are present, or may appoint another person to do so. If the Leader is not present and has not appointed another person to preside at the meeting, the members of the Executive who are present shall choose a member to preside.

4.14.2 All members of the Council may attend meetings of the Executive.

4.14.3 Without prejudice to the powers of the person presiding at the meeting to control debate as Chair, the following rights of address apply:

- (a) members of the Executive are entitled to speak at any meeting on any agenda item;

- (b) any Group Leader who is not a member of the Executive (or a member nominated by them) may speak on any item before the Executive;
- (c) any Member Champion may speak on any particular agenda item so long as they have informed the Leader of the Council prior to commencement of the meeting of their wish to do so. So long as this requirement is met, the person presiding at the Executive meeting shall call on the Member Champion to speak on the agenda item immediately following its presentation by the appropriate Executive Member(s) or Officer(s). The Member Champion shall make clear to those present at the meeting their particular Member Champion remit and that he or she is speaking in this capacity;
- (d) any member of the Council who is not an Executive Member may speak in accordance with paragraph 4.17.1(d) or with the consent of the person presiding; and
- (e) the person presiding may, at their discretion, permit one or more members of the public to address the Executive on a matter on the agenda provided they are satisfied that to do so would assist the Executive in coming to a decision on that matter. In giving such permission, the person presiding may attach such conditions as he or she thinks fit.

4.14.4 The person presiding has discretion to determine or limit the amount of time, and the number of times, that any member may speak on a particular item.

#### **4.15 Conduct of the Executive meeting**

4.15.1 At each meeting of the Executive or a Committee of the Executive the following business will be conducted:

- (a) Leader's announcements, if any, whether made in person or by a person nominated to do so in the Leader's absence or the person presiding in the absence of such a nomination;

- (b) apologies for absence;
- (c) confirm as a correct record and sign the minutes of the last meeting;
- (d) declarations of interest, if any;
- (e) matters referred to the Executive (whether by the Overview and Scrutiny Committee, Audit and Governance Committee, the Council or any other Member as provided at 4.17.1(d) below) 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 Section 13 of this Constitution;
- (f) consideration of recommendations from the Overview and Scrutiny Committee and/or Audit and Governance Committee if any; and
- (g) matters set out on the agenda for the meeting, which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Section 12 of this Constitution.

4.15.2 The person presiding at the meeting may vary the order of the agenda where it is necessary to do so for the proper conduct of the business of the meeting. Where the person presiding is of the opinion that there is insufficient information available to the Executive to enable a proper decision to be reached, they may defer consideration of the matter in question to a future meeting.

## **4.16 Consultation**

4.16.1 All reports to the Executive on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and the relevant Scrutiny Committee, where applicable, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## **4.17 How items can be put on the agenda for an Executive meeting**

4.17.1 Items may be placed on the agenda of an Executive meeting in any of the following ways:

- (a) an item will be placed on the agenda of the next available meeting of the Executive where the Overview and Scrutiny Committee, the Audit and Governance Committee or the Council has resolved that an item be considered by the Executive. There will be an item on the agenda of each meeting of the Executive for matters referred by the Overview and Scrutiny and Audit and Governance Committees when required;
- (b) The Chief Executive, the Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of an Executive meeting and may require that such a meeting be convened in pursuance of their statutory duties.
- (c) the Leader or any other member of the Executive may require the Proper Officer to place on the agenda of the next available meeting an item for consideration;
- (d) the Leader may agree to a request of any member of the Council that an item be placed on the agenda of the next available meeting for consideration. The notice of the meeting will give the name of the member who asked for the item to be considered. This member will be invited to attend the meeting and will be allowed to speak on the item. There shall be a maximum of two such items on any one Executive meeting agenda; or
- (e) By giving the appropriate notice of an item on the Forward Plan

## **4.18 Decision-making**

4.18.1 Key decisions

- 4.18.2 A key decision is an executive decision which is likely to:
- (a) result in new expenditure, income or savings of more than £200,000 in relation to the council's revenue or capital budget, this being deemed significant having regard to the council's overall budget; or
  - (b) be significant in terms of its effects on communities living or working in an area consisting of two or more wards.

4.18.3 Key decisions may be taken by:

- (a) the Executive;
- (b) an Executive Member to whom, or a committee of the Executive to which, authority over the function to which the key decision relates has been delegated;
- (c) an Executive Member or officer to whom, or a committee of the Executive to which, authority to make the specific key decision has been delegated; or
- (d) the delegator of the authority should the decision be returned to the delegator.

## **4.19 Forward Plan**

4.19.1 The Leader will ensure that the Proper Officer publishes a document, to be known as 'the Forward Plan', which shall include:

- (a) all key decisions that are likely to be made on behalf of the council during the four month period following publication of the Forward Plan, with the proposed date of a decision on any matter appearing on the Forward Plan for the first time being no less than 28 calendar days after publication;
- (b) a list of the documents to be submitted to the decision maker(s) for each key decision listed;

- (c) details of how copies of the listed documents may be reasonably accessed along with the procedure for requesting copies; and
- (d) other relevant documents which may be submitted to the decision-maker(s) along with details of to whom such documents should be submitted.

4.19.2 The Proper Officer will ensure that the current Forward Plan may be inspected at all reasonable hours and free of charge at the council's main offices and on the council's website.

## **4.20 Making key decisions**

4.20.1 Key decisions may be taken only if due notice has been given of them in the Forward Plan unless the procedure for taking decisions without due notice has been followed.

4.20.2 Key decisions may be taken by the Executive, by individual Executive Members, by committees of the Executive or by officers acting in accordance with powers delegated generally or specifically for that purpose.

4.20.3 No key decision shall be acted upon until either the deadline for submission of a requisition (often termed 'call in') has passed without one being submitted or any requisition submitted has been disposed of, unless the urgency provisions in paragraph 4.25 below apply.

4.20.4 Where an Executive Member or an Officer receives a report which they intend to take into account when making a key decision, they must not make that decision until the report has been available for public inspection for at least five clear days. This mirrors the notice period applicable to reports relating to key decisions to be considered by the Executive when meeting together.

4.20.5 The Executive Member or officer must ensure that the Proper Officer makes the report referred to in 4.20.4 above (and a list and copies of Background Papers) available for inspection by members and the public as soon as reasonably practicable after the Executive Member or officer receives it.

4.20.6 Before making a decision, the decision-maker shall give full consideration to all reports made available relating to the decision, any comments on the proposed decision made by Members and, where necessary, consideration shall be given to the need for further consultation or information.

#### **4.21 Non-key decisions**

4.21.1 A non-key decision is an executive decision that does not meet either criterion of a key decision as defined above.

#### **4.22 Making Executive Member non-key decisions**

4.22.1 Executive Member non-key decisions may be taken by the Executive or an individual Executive Member. In all cases, the decision-making body or person will be determined in accordance with powers delegated generally or specifically for that purpose.

4.22.2 No non-key decision shall be acted upon until either the deadline for submission of a requisition (often termed 'call in') has passed without one being submitted or any requisition submitted has been disposed of, unless the urgency provisions under paragraphs 4.25.2 (b), 4.25.2 (c) and 4.25.3 below apply.

4.22.3 Where an Executive Member receives a report which they intend to take into account when making a non-key decision, they must not make that decision until the report has been available for inspection by members and the public for at least five clear days. This mirrors the notice period applicable to reports relating to key decisions.

4.22.4 The Executive Member must ensure that the Proper Officer makes the report referred to in 4.22.3 above (and a list and copies of Background Papers) available for inspection by members and the public as soon as reasonably practicable after the Executive Member receives it.

4.22.5 Before making a decision, the decision-maker shall give full consideration to all reports made available relating to the decision, any comments on the proposed decision made by

Members and, where necessary, consideration shall be given to the need for further consultation or information.

#### **4.23 Executive Member Decisions: Supplemental Rules**

4.23.1 Individual Executive Members are empowered in line with their portfolios and delegations listed in 4.26 to make Executive decisions. If an individual Executive Member intends to make a key and non-key decision, the following additional rules apply:

- (a) If the Leader or an Executive Member has a Disclosable Pecuniary Interest in any matter which he or she is requested to consider, they shall immediately return the papers to the Chief Executive. The matter will then be considered by the Executive. It is incumbent on council officers to brief themselves as fully as possible to avoid this situation arising.
- (b) If an Executive Member is absent or unavailable for any reason, the Leader of the Council (or in their absence the Deputy Leader) may, by written notice to the Chief Executive, have power to temporarily re-allocate that portfolio to another Executive Member until the next Executive meeting (when the Executive can decide on the matter). The Leader or Executive Member will be able to take part in the decision-making process if a dispensation has been granted.
- (c) If an Executive Member is unable to act for any other reason, the Leader of the Council is authorised to make the decision or in their absence or at their 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 an Executive Member may exceptionally decline to decide the matter and instead ask the Proper Officer to put it on the agenda for the next Executive meeting.
- (e) In respect of any urgent business, if the Executive Member delays or declines to make a decision the Chief

Executive shall have power to seek a decision from the Leader or Deputy Leader.

- 4.23.2 Individual Executive Members shall not be empowered to make a key or non-key decision if:
- (a) the decision would be a departure from the agreed annual Budget or Policy Framework;
  - (b) the Leader has indicated that the decision should be taken collectively by the Executive. Notification of this by the Leader must be made to the Monitoring Officer;
  - (c) the decision is solely in relation to the Executive Member's own ward including, for example, making a grant, unless this is agreed by the Leader;
  - (d) the Executive Member has either a Disclosable Pecuniary Interest or some other conflict of interest in which case the provisions in 4.23.1(a) above apply;
  - (e) the authority to make the decision has been delegated to an officer, unless the officer refers the decision to the Executive Member; or
  - (f) the Monitoring Officer or Chief Executive has determined that the decision is not an executive decision.
- 4.23.3 As with any executive decision, the Executive Member must consult those officers deemed appropriate by the Chief Executive and must take into account of this advice and the legal, financial and equalities implications of the decision under consideration.
- 4.23.4 Where there are significant implications across portfolios, the decision should be made in consultation with other appropriate Executive Members.
- 4.23.5 Where a decision has a significant impact on an individual ward the Executive Member should consult the appropriate ward member(s).

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

4.23.7 The rules relating to the notification and recording of decisions, along with call in procedures, as covered elsewhere in Section 4 of the Constitution apply to executive decisions taken by individual Executive Members.

#### **4.24 Recording of Key and Non-Key Executive decisions**

4.24.1 The outcome of executive decisions, whether key decisions or non-key decisions, shall be recorded as soon as practicable after they have been made in accordance with Access to Information Procedure Rules.

4.24.2 An executive decision taken by the Executive at an Executive meeting shall be recorded in the minutes of that meeting. An executive decision taken by an individual Executive Member or an officer shall be recorded separately. In both cases, the Proper Officer shall produce a written statement in respect of that decision which includes:

- (a) a record of that decision;
- (b) a record of the reasons for that decision;
- (c) details of any alternative options considered and rejected at the time;
- (d) a record of any conflict of interest or of any dispensation granted.

4.24.3 Following the making of an executive decision as allowed by this constitution, the Proper Officer shall ensure that any records prepared in connection with and any report considered shall be available for inspection by members of the public.

#### **4.25 Action where a key decision has not been shown on the Forward Plan**

- 4.25.1 A key decision that has not been shown on the Forward Plan shall only be made in exceptional circumstances.
- 4.25.2 Such a key decision shall only be made if the Chair of the Overview and Scrutiny Committee signifies in writing on the report relating to the decision to be made that:
- (a) it was reasonable in the circumstances for notice of the need for the decision not to appear on the Forward Plan;
  - (b) there is urgency for the decision to be made that justifies its being dealt with immediately rather than being processed in the normal way;
  - (c) there are no grounds for supposing that the decision would be called in if processed in the normal way.
- 4.25.3 Where the Chair so signifies, the decision may be made forthwith and implemented without delay in line with the urgency procedure at paragraph 5.32 of this Constitution.

## 4.26 Executive Portfolio Holder Structure

4.26.1 Executive functions will be determined by Executive Members whether acting collectively or individually in line with the delegations in paragraph 4.26.2 of this section below. These functions will be grouped together in the form of portfolios, the number and scope of which will be determined by the Leader. The Leader will also allocate responsibility for the portfolios among the individual Executive Members on an annual basis and shall have the ability to amend these in year as required. The Leader has allocated a “Portfolio” to each Executive Member and delegated to each “Portfolio Holder” responsibility for the discharge of functions set out below in line with the delegations in paragraph 4.26.2 of this section below.

4.26.2 The Portfolios and areas of responsibility are as follows:

| <b>Portfolio</b>      | <b>Areas of Responsibility</b>                                                                                                                                                                                    |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Leader of the Council | Strategic Growth                                                                                                                                                                                                  |
| Planning and Growth   | Development Management<br>Planning Policy<br>Conservation<br>Urban Design<br>Section 106<br>Planning Enforcement<br>Neighbourhood Planning<br>Master Planning<br>Regeneration<br>Operational Economic Development |

|                              |                                                                                                                                                                                                                                |
|------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                              | <p>Digital Infrastructure</p> <p>Licensing Policy</p>                                                                                                                                                                          |
| Corporate Services           | <p>Human Resources and Organisation Development</p> <p>Health and Safety</p> <p>Customer Services</p> <p>Risk Management</p> <p>Legal and Democratic Services</p> <p>Procurement</p> <p>ICT</p>                                |
| Financial Sustainability     | <p>Budget</p> <p>Annual accounts</p> <p>Treasury Management</p> <p>Financial Sustainability Committee</p> <p>Asset Management</p> <p>Property Management</p> <p>Millstream</p> <p>Performance</p> <p>Revenues and Benefits</p> |
| Environmental Sustainability | <p>Climate Change</p> <p>Air Quality</p> <p>Transport Strategy</p> <p>Community Transport</p> <p>Parking</p>                                                                                                                   |

|                                  |                                                                              |
|----------------------------------|------------------------------------------------------------------------------|
|                                  | Waste                                                                        |
| Wellbeing                        | Public Health<br>Leisure<br>Culture<br>Green Space<br>Environmental Health   |
| Neighbourhoods and Deputy Leader | Housing<br>Community Safety<br>CCTV<br>Emergency Planning<br>Safeguarding    |
| Communities                      | Partnerships and Development<br>Grants<br>Councillor Support and Development |
| Resident Engagement              | Resident Engagement<br>Consultation Development<br>Communications            |

4.26.3 The following responsibilities have been delegated to each individual Executive Member to exercise within their portfolio and service area:

- (a) to exercise the Executive powers and duties of the Council for strategic development, policy direction, partnership working, Key Decisions, programme and performance management, in accordance with the council's procedure rules, for their portfolio areas;

- (b) to be responsible for ensuring the successful delivery of business transformation in relation to their portfolio areas;
- (c) to request the Overview and Scrutiny Committee to review changes to policy and strategy within their areas of responsibility;
- (d) to have oversight of budget planning and monitoring in their service area, including minor in-year changes to fees and charges;
- (e) to act as the Council's lead spokesperson and representative on strategic bodies for their areas of responsibility and to respond to relevant consultations by Central Government and other agencies;
- (f) where there are implications for policies of the council, to agree responses to consultation papers from the Government (including Green and White papers) or any regional or professional body;
- (g) to determine priorities in conjunction with the relevant member of the council's Leadership Team and other Executive members (within the policy framework and budget);
- (h) to make suggestions for policy initiatives (within the Budget and/or Policy Frameworks) and for amendments to the Budget and/or Policy Framework, for agreement by the Executive and Council;
- (i) to recommend to the Executive a response to reports from the Overview and Scrutiny Committee or Audit and Governance Committee in respect of the allocated services;
- (j) to review customer satisfaction, results of consultation with stakeholders and the efficiency of service provision generally and to agree arrangements for continuous improvements to be made;

- (k) to consider and recommend plans in respect of the portfolio allocated;
- (l) to promote effective relationships and partnerships between the council and all other bodies and agencies affecting the community;
- (m) to consult any advisory bodies as directed by the Executive;
- (n) to agree minor matters and non-material amendments to policy;
- (o) to approve the allocation of grant funding provided by the council to third parties within approved overall budgets for this purpose; and
- (p) to approve all in year changes to both fees and charges.

4.26.4 The Executive Member for Neighbourhoods has been delegated authority:

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

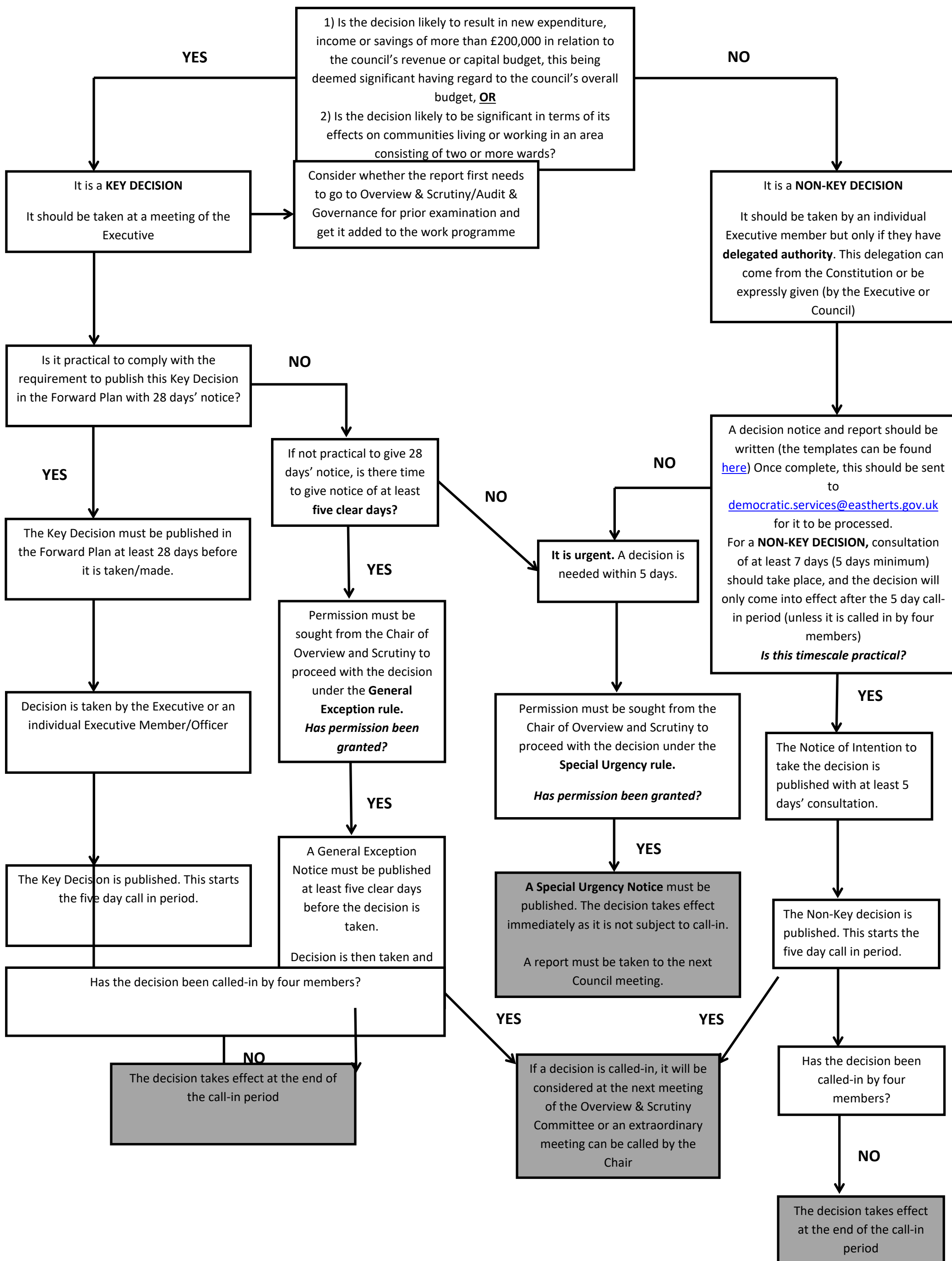
4.26.5 The Executive Member for Financial Sustainability has been given delegated authority:

- (a) to consider the needs for particular properties and/or other assets held by the council and to make recommendations to the Executive regarding their use, improvement and/or disposal.
- (b) to authorise the sale of any single asset held by the Council up to the value of £500k as advised and recommended by officers as being in the interest of the Council and where expediency is required and the matter cannot wait until the next ordinary meeting of the Executive. Any such authorisation by the Executive Member for Financial Sustainability is subject to the

Council's Member call-in procedure as described in Section 5, paragraph 5.31 of this Constitution.

- 4.26.6 Under Section 4 of this constitution, the Leader may exercise any of the functions delegated to individual Executive Member.
- 4.26.7 The Leader may delegate other functions not expressly set out herein to individual Executive Members provided they are Executive functions and provided due notice of the exact terms of the delegation and the name of the Executive Member is lodged with the Proper Officer.

**EXECUTIVE DECISIONS (KEY, NON-KEY AND URGENT)**



# **Section 5 – The Overview and Scrutiny Committee**

## **5.1 Introduction**

5.1.1 Effective overview and scrutiny is essential to enhance the accountability and transparency of the decision-making process. The Council has appointed the Overview and Scrutiny Committee to discharge the functions conferred by section 9F of the Local Government Act 2000 and any regulations. This Committee will discuss issues in public and take a cross-cutting approach to its work. In accordance with section 9FA of the above Act it may appoint one or more Sub-Committees to carry out any of its functions. It will seek to improve the delivery of policies and services by:

- (a) holding the Executive to account for its actions;
- (b) advising on the development and implementation of new policy and corporate projects;
- (c) testing whether existing policies and practices are effective and efficient and suggesting how they might be improved; and
- (d) ensuring the rigour and objectivity of performance management and service reviews.

## **5.2 The Overview and Scrutiny Committee**

5.2.1 The Council will appoint an Overview and Scrutiny Committee of up to 14 Members, or as many as Council determines from time to time, and it will normally be politically balanced. No member of the Executive may be a member of the Overview and Scrutiny Committee.

5.2.2 The primary purpose of the Committee is to improve the delivery of policies and services. Its Terms of Reference are the performance of all overview and scrutiny functions on behalf of the Council and as set out in section 9F of the Local Government Act 2000. The Committee's Terms of Reference

can be found at paragraph 5.22.

- 5.2.3 For specific issues, the Committee's work can be carried out by a Rapid Review or a Task and Finish Group, which will be appointed and managed by the Committee. These groups will draw upon the knowledge and expertise of all Members of the Council.

### **5.3 Holding the Executive to Account**

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

- (a) scrutinising decisions which the Executive is planning to take, as set out in the Forward Plan or of which proper notice is given (including decisions referred to it in accordance with paragraph 4.6.2 of Section 4);
- (b) scrutinising decisions of the Executive and individual Executive Members before they are implemented and if necessary using the 'Call-in' mechanism to require the decision taker to reconsider the earlier decision; and
- (c) scrutinising decisions of the Executive or Executive Members after they have been implemented as part of a wider review.

### **5.4 Finance**

- 5.4.1 The Overview and Scrutiny Committee may exercise overall responsibility for any finances made available to it

### **5.5 Annual Report**

- 5.5.1 The Overview and Scrutiny Committee must report annually to the Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

### **5.6 Officers**

- 5.6.1 The Overview and Scrutiny Committee may exercise overall

responsibility for the work programme of any Officers employed to support its work.

## **5.7 Proceedings of the Committee**

5.7.1 The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out from paragraph 5.11 of this Constitution.

## **5.8 Work Programme**

5.8.1 The Rules of Procedure from paragraph 5.11 of this Constitution will also provide mechanisms to allow all Members of the Council the opportunity to place an item on the agenda of the Overview and Scrutiny Committee.

5.8.2 When practicable, the Overview and Scrutiny Committee will publish a forward work programme or list of items likely to be considered over the next four months.

## **5.9 Working Methods**

5.9.1 The following principles should be adhered to by the Overview and Scrutiny Committee when carrying out its work:

- (a) a variety of different approaches and formats for meetings may be used;
- (b) Rapid Reviews and Task and Finish Groups reporting periodically and at the end of reviews to the Overview and Scrutiny Committee
- (c) membership of the Committee and its sub groups (if applicable) should be tailored to ensure appropriate skills and expertise, and external input, are brought to bear;
- (d) when appropriate, full consultation with all other stakeholder groups and organisations should take place;
- (e) the declaration of interest rules shall apply;

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

## **5.10 Support**

5.10.1 In order that the Overview and Scrutiny Committee can perform its role properly, it shall be given the following support:

- (a) effective and properly resourced support from Officers;
- (b) appropriate financial resources;
- (c) access to the advice of the council's Monitoring Officer;
- (d) the ability to require Executive Members and Officers to attend to answer questions;
- (e) specific training and development for all persons who undertake overview and scrutiny duties; and
- (f) access to the Forward Plan, containing details of all the

matters likely to be the subject of Key Decisions, or to be considered in private by the Executive, or its Committees or by Officers.

## **5.11 Overview and Scrutiny Procedure Rules**

- 5.11.1 The Council is required by law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. A Scrutiny Committee can contribute to the development of Council policies and also hold the Executive to account for its decisions. Another key part of the overview and scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies.
- 5.11.2 Scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants and service users. A Scrutiny Committee should not shy away from the need to challenge and question decisions and make constructive criticism.
- 5.11.3 The Council has one Scrutiny Committee, the Overview and Scrutiny Committee and it is required by statute to abide by any statutory limitations placed upon it.

## **5.12 Composition and arrangements**

- 5.12.1 The Committee will consist of a maximum of 14 Members of the Council
- 5.12.2 All Councillors except Members of the Executive may be members of the Overview and Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which they have been directly involved.

## **5.13 Appointment of Members and substitutes**

- 5.13.1 Members and Substitutes shall be appointed by Annual Council in accordance with the wishes of the political group to whom the seats have been allocated.

## **5.14 Co-optees**

- 5.14.1 The Overview and Scrutiny Committee shall be entitled to recommend to Council the appointment of a number of people

as non-voting co-optees.

## **5.15 Meetings of the Overview and Scrutiny Committee**

5.15.1 Meetings of the Overview and Scrutiny Committee shall be programmed in each year. There will normally be between four and six meetings of the Committee annually.

5.15.2 In addition, Extraordinary Meetings may be called from time to time as and when appropriate. An Extraordinary Meeting may be called by the Chair of the Committee, by any four Members of the Committee or by the Democratic Services Officer if they consider it necessary or appropriate.

## **5.16 Quorum**

5.16.1 The quorum for the Overview and Scrutiny Committee shall be five voting members of the Committee.

## **5.17 Procedure at Overview and Scrutiny Committee meetings**

5.17.1 Meetings of the Overview and Scrutiny Committee and Sub-Committees shall consider the following business:

- (a) minutes of the last meeting;
- (b) declarations of interest;
- (c) public participation
- (d) consideration of any matter referred to the Committee for a decision in relation to call- in of a decision;
- (e) responses of the Executive to reports of the Committee;
- (f) consideration of the forward plan; and
- (g) the business otherwise set out on the agenda for the meeting, including the Committee's work programme.

5.17.2 Executive Members will be invited by the Committee in relation to items of business specific to their portfolio.

- 5.17.3 Where the Committee conducts inquiries (for example, with a view to policy options), it may also ask people to attend committee meetings to assist Members which are to be conducted in accordance with the following principles:
- (a) that the inquiry be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (b) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - (c) that the inquiry be conducted so as to maximise the efficiency of the investigation or analysis.
- 5.17.4 Following any investigation or review, the Committee shall prepare a report, for submission to the Executive and/or Council as appropriate and shall make its report and findings public.

## **5.18 Public Participation**

- 5.18.1 In the event that a member of the public has proposed a topic for the Overview and Scrutiny Committee to scrutinise which has been accepted by the Chair, the member of the public will have the opportunity to address the Committee at the meeting that the item appears on the agenda.
- 5.18.2 Each member of the public addressing the Overview and Scrutiny Committee is allowed a maximum of three minutes in which to address the Committee, up to a maximum of 15 minutes in total from members of the public.
- 5.18.3 Every person wishing to address the Committee should contact Democratic Services ([democratic.services@eastherts.gov.uk](mailto:democratic.services@eastherts.gov.uk)) by 12 noon, three working days before the meeting. This must be submitted in writing.
- 5.18.4 The Monitoring Officer reserves the right to omit or refuse a request which includes any matter which appears to be defamatory, frivolous, offensive or for any other legitimate

reason.

## **5.19 Overview and Scrutiny Committee Chair**

5.19.1 The Chair of the Overview and Scrutiny Committee will be appointed by Council at its annual meeting. The Vice-Chair will be appointed by the Committee at its first meeting of the Civic Year.

5.19.2 In the event that there is more than one political group within the Council, it will be desirable for:

- (a) the Overview and Scrutiny Committee to be chaired by a Member who is not a Member of the majority group; and
- (b) the Vice-Chair of the Overview and Scrutiny Committee to be a Member of the majority group.

5.19.3 The Chair and Vice-Chair will hold office until:

- (a) they resign from the office of Chair or Vice-Chair;
- (b) they are no longer a Councillor; or
- (c) they are removed by a resolution of the Council.

5.19.4 Upon the occurrence of a vacancy in the office of Chair or Vice-Chair, the Committee shall fill the vacancy at its next ordinary meeting

## **5.20 Work programme**

5.20.1 The Overview and Scrutiny Committee will be responsible for setting their own Work Programme and in doing so they shall take into account wishes of Members of that Committee who are not Members of the largest political group on the Council. The Work Programme should retain flexibility to deal with urgent issues.

5.20.2 In setting its work programme, the Overview and Scrutiny Committee shall take into account;

- (a) the council's corporate and strategic priorities;
- (b) significant policies in the forward plan;
- (c) submissions from members of the public;
- (d) submissions from Members/Executive; and
- (e) should have a clear rationale for including items for consideration and with regard to the forward plan, ensuring that the largest, strategic items are given precedence.

5.20.3 The Committee will be 'forward-looking', shaping new policies at an early stage of their development, and undertaking reviews of existing policies or service delivery models in order to look to make future improvements.

## **5.21 Terms of Reference**

5.21.1 The Overview and Scrutiny Committee has the following functions:

- (a) Discharge the statutory functions granted to the Committee by Section 21 of the Local Government Act 2000, as amended, plus consideration of any matter referred to it under Section 21A, plus any powers and functions conferred under Sections 21A, 21B and 21D of the Local Government Act 2000;
- (b) To review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Executive.
- (c) To make reports or recommendations to the authority or the Executive with respect to the discharge of any functions which are the responsibility of the Executive;
- (d) Pursuant to the requirements of the Police and Justice Act 2006 (as amended) review or scrutinise decisions made, or other action taken, in connection with the

discharge by the Council and other bodies and persons responsible for crime and disorder strategies for the area or in relation to a local crime and disorder matter, and to make reports or recommendations to the Council for the discharge of those functions, and arrange for copies of any report to be sent to those bodies and persons responsible for crime and disorder strategies for the area (and such other co-operating persons and bodies as it thinks appropriate);

- (e) To consider a local crime and disorder matter, (including in particular forms of crime and disorder that involve anti-social behaviour or adversely affecting the local environment, or the misuse of drugs, alcohol and other substances), referred to it by any member of the Council or by Executive pursuant to the requirements of the Police and Justice Act 2006 (as amended);
- (f) Question members of the Executive and/or Committees and/or officers about their views on issues and proposals affecting the area and to make reports or recommendations to the authority or the Executive on matters which affect the authority's area or the inhabitants of that area;
- (g) Liaise with external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative partnership working;
- (h) Conduct research, community and other consultation in the analysis of policy issues and possible options;
- (i) Consider mechanisms to encourage and enhance community participation in the development of policy options;
- (j) Consider the impact of policies to assess if they have made a difference;
- (k) To consider the Forward Plan and comment as appropriate prior to any decision being made;

- (l) Consider reports relating to the authority's use of the Regulation of Investigatory Powers Act (2000) (RIPA);
- (m) To review performance against the Council's agreed objectives / priorities and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or service areas. To consider risk to the achievement of those objectives/ priorities. To make recommendations to the Executive;
- (n) Receive a referral from any member of the Committee, relevant to the functions of the Committee;
- (o) To appoint time limited Rapid Reviews and/or Task and Finish Groups to undertake detailed scrutiny work report back to the Overview and Scrutiny Committee to make recommendations to the Executive;
- (p) To scrutinise decisions prior to implementation in accordance with the Council's adopted call-in procedure (as detailed below)
- (q) Consider reports relating to the authority's safeguarding responsibilities

## **5.22 Agenda items**

- 5.22.1 Any Member of the Overview and Scrutiny Committee or of its Sub-Committees shall be entitled to give notice to the Democratic Services Officer that they wish for an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee or Sub-Committee, following such procedures as are established at the time. Ten working days' notice of the item should be given to the Democratic Services Officer together with sufficient information to enable the Officer to advise about the nature and purpose of the item.
- 5.22.2 On receipt of such a request, so long as it is within the relevant terms of reference, the Democratic Services Officer will ensure that it is included on the next available agenda, subject to having scoped out the work required to deliver the item and considered the feasibility of this work in terms of

officer/other resources.

- 5.22.3 The Committee or Sub-Committees shall also respond, as soon as their work programme permits, to requests from the Council and the Executive to review particular areas of council activity. Where they do so, the Committee or Sub-Committees shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report at its next meeting.

## **5.23 Limitations of Scrutiny**

- 5.23.1 The Overview and Scrutiny Committee shall have the power to receive a Call-In made in accordance with the rules at paragraph 5.31 below, relevant to any of the functions of the Committee, other than:
- (a) A planning or licensing decision;
  - (b) Any matter relating to an individual or entity where there is already a statutory right to review or appeal (but not including the right to complain to the ombudsman);
  - (c) Any matter which is vexatious is substantially the same as a call in previously reviewed by a meeting of the Committee in the last six months, discriminatory or otherwise unreasonable;
- 5.23.2 The decision as to whether the call-in is valid or falls within (a)-(c) above rests with the Democratic Services Officer in consultation with the Monitoring Officer.

## **5.24 Reports from Overview and Scrutiny Committee**

- 5.24.1 Once it has formed recommendations on proposals the Committee (with support from Officers) will prepare a formal report and submit it via the Democratic Services Officer for consideration by the Executive (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).

- 5.24.2 The Chair, or in their absence, the Vice-Chair of the Overview and Scrutiny Committee and will normally be responsible for presenting the report to the Executive or the Council as appropriate. However, in the case of the report of a Rapid Review and/or Task and Finish group, the report to the Executive and/or Council can also be made by the Chair or Vice-Chair of that Rapid Review and/or the Task and Finish Group.
- 5.24.3 If the Committee cannot agree on one single final report to the Council or Executive as appropriate, then a minority report may be prepared and submitted for consideration by the Council or Executive with the majority report with the agreement of the Committee.
- 5.24.4 The Council or Executive shall consider the report of the Overview and Scrutiny Committee at its next meeting.

## **5.25 Making sure that scrutiny reports are considered by the Executive**

- 5.25.1 Once the Committee has completed its deliberations on any matter it will forward a copy of its final report to the Democratic Services Officer who will allocate it to either or both the Executive and the Council for consideration, according to whether the contents of the report would have implications for the Council's Budget and Policy Framework. If the Democratic Services Officer refers the matter to Council, they will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Executive must be given the opportunity to respond to the Scrutiny report before the Council meets to consider it. When the Council does meet to consider any referral from the Scrutiny Committee on a matter which would impact on the Budget and Policy Framework, it shall also consider any response of the Executive to the scrutiny proposals.
- 5.25.2 The agenda for Executive meetings shall include an item entitled 'Issues arising from Overview and Scrutiny' and the Chair will have a standing invitation to present this item should they wish to. Any reports referred to the Executive shall normally be included at this point in the agenda (unless they have been considered in the context of the Executive's

deliberations on a substantive item on the agenda).

## **5.26 Members and officers giving account**

5.26.1 Any Scrutiny Committee or Sub-Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Executive, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit such as:

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement council policy; and/or
- (c) their performance;

and it is the duty of those persons to attend if so required.

5.26.2 Where any Member or officer is required to attend a Scrutiny Committee or Sub-Committee under this provision, the Chair of that Committee or Sub-Committee will inform the Democratic Services Officer. The Democratic Services Officer shall inform the Member or officer in writing giving at least 10 working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

5.26.3 Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Committee or Sub-Committee shall in consultation with the Member or Officer arrange an alternative date for attendance.

## **5.27 Attendance by others**

5.27.1 The Overview and Scrutiny Committee may invite people

other than those people referred to in paragraph 5.26 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and Members and officers from other parts of the public sector and shall invite such people to address it.

## **5.28 Forms of Scrutiny**

5.28.1 Scrutiny should not be limited to meetings of the Overview and Scrutiny Committee. Members will contact Executive Members and Officers to gather information to facilitate informed and focused discussion at Committee. These informal enquiries may assure Members at an early stage and allow the Committee's limited time to be used more appropriately.

5.28.2 The Overview and Scrutiny Committee have the following tools to utilise when scrutinising a topic and should be considered in the following order;

- (a) A report via the Overview and Scrutiny Committee
- (b) Rapid Review
- (c) Task and Finish Group
- (d) Call-in

## **5.29 Rapid Reviews**

5.29.1 Rapid reviews can be set up by the Overview and Scrutiny Committee to work on a short, highly focused piece of work which cannot be completed in Committee.

5.29.2 Only one Rapid Review should be set up at one time and they should generally be limited to one meeting, which may be supported by Officers.

5.29.3 Rapid Reviews are informal bodies and shall have no decision making powers.

5.29.4 The Rapid Review will produce a report for consideration by the Overview and Scrutiny Committee at the end of the review.

## **5.30 Task and finish groups**

- 5.30.1 Task and Finish Groups will be set up by the Overview and Scrutiny Committee to carry out detailed work in relation to specific topics or issues. The Overview and Scrutiny Committee will decide what Task and Finish Groups are set up and what their terms of reference will be. These will include the membership of the group and the proposed dates of reporting to the Overview and Scrutiny Committee.
- 5.30.2 Only one Task and Finish Group should be set up at one time and they should be time limited and have duration of no more than eight weeks.
- 5.30.3 Task and Finish Groups are informal bodies and shall have no decision making powers.
- 5.30.4 Task and Finish Groups will keep the Overview and Scrutiny Committee informed of their progress. They will produce a report for consideration by the Overview and Scrutiny Committee at the end of the review.

## **5.31 Call-in**

- 5.31.1 A key element of the scrutiny role concerns the arrangements for the “Call-in” of a decision taken by or on behalf of the Executive. Key or non-key decisions by the Executive, a Committee of the Executive or an individual Executive Member and key decisions made by an officer with delegated authority from the Executive, may be “called in” by four Members of the Council submitting a request in writing on the call in request form to the Chief Executive within five working days of the publication of that decision. No action can be taken on an item called in for scrutiny.
- 5.31.2 Call-in should only be used in exceptional circumstances. These are where Members have evidence which suggests that the Executive decision was not taken in accordance with the principles set out in Section 3b (Decision Making). In order

to ensure that Call-in is not abused; nor causes unreasonable delay, certain limitations are to be placed on its use. These are:

- (a) a decision must be called in by at least four Members of the Council; and
- (b) a decision on the same item may only be called in for scrutiny by the Committee on one occasion within a six month period. The six month period is to commence from the date the Call-in request is received by the Chief Executive;
- (c) Members who have called in a decision may withdraw their Call-in at any time prior to the meeting taking place to hear the Call-in, by giving notice in writing to the Democratic Services Officer.

5.31.3 The following arrangements for a Call-in will apply:

- (a) when a key or non-key decision is made by the Executive (or by any Committee or Members of the Executive with a delegated authority contained in Section 3b of this Constitution) or a key decision is made by an officer with delegated authority from the Executive, the decision shall be published electronically. Notification of all such decisions will also be issued to all members by the person responsible for publishing the decision;
- (b) the relevant notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless it is called in;
- (c) during that period, the Chief Executive shall call in a decision for scrutiny by the Committee if so requested by Members (in accordance with paragraph 5.31.2 above), and shall notify the decision-taker of the Call-in. An item called in for scrutiny will normally be considered by the Overview and Scrutiny Committee at its next scheduled meeting. However, in consultation with the Chair of the

Committee, they may call an Extraordinary Meeting of the Committee on such date as they may determine (in accordance with the Access to Information Procedure Rules in Section 12 of this Constitution);

- (d) any Member considering calling in a decision must first make every effort to discuss the issue with the relevant Executive Member or the Leader of the Council;
- (e) Members using the Call-in arrangements have the right to address the Committee when it deals with the issue;
- (f) normally, the Committee will complete its scrutiny of the issue at that meeting and report the outcome to the next meeting of the Executive. However, the Committee may consider that further time is required to consider the issue and would therefore need to recommend to the Executive that further work be carried out and that the Overview and Scrutiny Committee makes recommendations at a later date. In these circumstances, the Executive will decide whether or not the decision should be implemented, having regard to the urgency, if any, of the matter and the provisions of the Budget and Policy Framework Rules (see (i) below);
- (g) if the Overview and Scrutiny Committee agrees with a called- in decision, the decision may be implemented immediately following the Overview and Scrutiny Committee meeting;
- (h) if, through the scrutiny process and/or in pursuance of the Budget and Policy Framework Procedure Rules set out in Section 13 of this Constitution, a called in decision is deemed to be contrary to the Policy Framework, and/or contrary to or not wholly consistent with the Budget, it may have to be referred to the Council for a final decision and the action cannot be acted upon until this decision is made;
- (i) if the called in decision does not contradict the Policy Framework and/or Budget but the Committee decides to make an alternative recommendation, this will be considered by the Executive at its next meeting and no

action should be taken until a final decision has been made by the Executive.

### **5.32 Call-in and urgency**

5.32.1 The Call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the Call-in process would seriously prejudice the council's or the public's interest. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to Call-in. The Chair of the Overview and Scrutiny Committee must agree both that the decision proposed is reasonable and that there are reasonable grounds for treating the decision as a matter of urgency. In the absence of the Chair, the Vice Chair of the Overview and Scrutiny Committee's consent shall be required. In the absence of both, the Head of Paid Service or their nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

### **5.33 The party whip**

5.33.1 As part of the scrutiny function, the imposition of the party whip is regarded by the Council as incompatible with the Overview and Scrutiny Committee's terms of reference. The party whip should not therefore be imposed on any member of the Overview and Scrutiny Committee while engaged in that Committee's work.

### **5.34 Councillor Call for Action (CCfA)**

5.34.1 Any Councillor may request that the Overview and Scrutiny Committee consider the inclusion of a Councillor Call for Action (CCfA) on its work programme, under the terms of the CCfA Protocol set out below. The operation of CCfA will be in full compliance with the Protocol and, as for Call-in, will be used only in exceptional circumstances where all other possible avenues for resolution of the issue have been followed by the referring Councillor, and yet a problem still

exists.

## **Councillor Call for Action (CCfA) Protocol**

Under section 119 of the Local Government and Public Involvement in Health Act 2007, a Member may call for debate and discussion at a committee meeting, on a topic of neighbourhood concern. These powers are limited to an issue which affects a single council ward. CCfA will be considered by the Overview and Scrutiny Committee, whose terms of reference include within its remit, the subject of the CCfA. In order to initiate the CCfA process, the Chair of the Committee, in conjunction with the Monitoring Officer, will need to be satisfied that the following criteria have been met:

### **Criteria**

Statutory Regulations specify matters that are excluded from CCfA:

1. any matter which is vexatious, discriminatory or not reasonable;
2. any matter which is the subject of an individual complaint;
3. any matter relating to a planning appeal, licensing appeal or other issue where there is an alternative avenue available; and
4. the matter must be one where all other attempts at resolution have been exhausted.

The following process will need to be followed:

### **Process**

1. A Member should direct a CCfA request in writing to the Chair of the Overview and Scrutiny Committee and the Monitoring Officer who will, if the above criteria are met, allow the issue to be placed on the agenda for a subsequent meeting. The request should specify:
  - the ward concerned and how the issue relates only to that ward;
  - the views and concerns of local residents;
  - how existing mechanisms for resolution have been tried and exhausted; and
  - the desired outcomes for resolving the issue.
2. The Committee Chair, in conjunction with the Monitoring Officer, may determine whether the next scheduled meeting of the Committee is appropriate or if an additional meeting needs

to be convened.

3. The Committee, subject to the necessary notice being given, will be able to request attendance from the relevant Executive Member and/or representatives of partner organisations, and/or to request information.
4. The Committee should discuss how to achieve the desired outcomes that the Member bringing the CCfA has specified and should conclude its consideration with a recommendation that certain action(s) should take place. The Committee may decide to challenge whether the desired outcome is reasonable.
5. Whilst there will be no specified procedure for the discussions, the Chair, in consultation with Officers, may determine an informal structure that will enable all parties to contribute.
6. All CCfA requests, whether pursued or not, should be reported to the next relevant meeting of the Committee for information. This will enable the Committees to take account of all requests in determining work programmes.

## **Section 6 – Regulatory Committees**

### **6.1 Development Management Committee**

#### **6.1.1 Remit**

6.1.2 The Development Management Committee (in this Section 2 referred to as “the Committee”) is authorised to undertake (or sub-delegate) all of the council’s functions specified in Part A (town and country planning and development management) and paragraphs 46 (hedgerows), 47 (trees) and 48 (high hedges) of Part I of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, save that where the Committee has resolved to grant planning permission or listed building consent subject to completion of a planning obligation (including a deed modifying or discharging an existing obligation) and an obligation acceptable to the Head of Planning and Building Control has not been entered into within 3 months of the Committee’s resolution, the Director for Place may refuse that application for lack of an acceptable planning obligation.

6.1.3 The Committee is also authorised to exercise the council’s local choice functions in relation to the obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land and the obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 (as specified in the table in Section 1 above).

### **6.2 Membership and meeting arrangements**

6.2.1 The Committee, consisting of 12 Members (and up to six substitutes), will be appointed by Annual Council and will be politically balanced.

6.2.2 The Committee will meet in accordance with a schedule of Ordinary Meetings, although meetings may be cancelled due to lack of business, or additional meetings may be arranged as necessary, in consultation with the Chair of the Committee.

### **6.3 Quorum**

6.3.1 The Quorum for the Committee shall be four Members.

#### **6.4 Development Management Committee Chair**

6.4.1 The Chair of the Development Management Committee will be appointed by Council at its annual meeting. The Vice-Chair will be appointed by the Committee at its first meeting of the Civic Year.

#### **6.5 Procedure at meetings**

6.5.1 Procedure at meetings shall be in accordance with the Council Procedure Rules in Section 3, except as provided in 6.5.2 to 6.5.5 below.

6.5.2 At a meeting of the Development Management Committee, a person or their representative may, if notice in writing, by telephone or in person has been given by 5pm two working days before the meeting, speak on a particular planning application, provided that it is on the agenda to be considered at the meeting

6.5.3 For each planning application, which is subject to consideration at the meeting, the following process will be followed:

a) An introduction and presentation of the application by Officers and/or the Chair

b) Representations by objector(s) or their representatives

c) Representations by Parish/Town Council

d) Representations by applicant and/or supporters or their representatives

e) Representations by Ward Councillor(s)

6.5.4 Members may seek clarification on any of the representations set out in 6.5.3 b) – e) after they have

spoken. The Chair has the discretion to refuse to allow a question to be asked or answered where it does not relate to something stated by the speaker and the proposal under consideration. The Chair has discretion as to the length of time questions and answers can be heard for. Members may ask questions of Officers at any point in proceedings, subject to the Chair's discretion.

6.5.5 The time limits for the process set out in 6.5.3 are as follows:

- For b, c, and d) Three minutes in total for each section, unless the application relates to a strategic site in the District Plan , in which case six minutes.

- For e) Five minutes, unless the application relates to a strategic site in the District Plan 2018, in which case 10 minutes.

The time limits are the total amount of time for each section and will be split where there are multiple representors.

6.5.6 The Committee shall have authority to depart from the arrangements in 6.5.2 to 6.5.5 and determine specific arrangements for public speaking on certain applications, as it sees fit.

## **6.6 Licensing Committee**

### **6.6.1 Remit**

The Licensing Committee (in this Section 3 referred to as “the Committee”) is delegated by Council to form the statutory Licensing Committee as required under the Licensing Act 2003. Acting on this delegation, the Licensing Committee is authorised to address the registration and regulatory remit of the council as required under:

- (a) the Licensing Act 2003; and
- (b) the Gambling Act 2005.

### **6.6.2 Members of the Licensing Committee also have delegated authority as a Committee constituted under the Local Government Act 1972 to address issues relating to the registration and regulatory of the following, unless the authority to determine the matter has been delegated to another Committee or an individual officer:**

- (a) the Local Government (Miscellaneous Provisions) Act 1976 (as it relates to taxi licensing);
- (b) health and safety at work (for non-council officers);
- (c) food premises;
- (d) scrap metal; and
- (e) Local Choice Functions (as specified in Section 3C).

### **6.6.3 The Committee may authorise a prosecution for any offence within the scope of its delegation.**

### **6.6.4 Unless otherwise delegated, the Committee will hear licensing and registration appeals which the council is required to determine. The Committee will not take the place of any other appeals or complaints procedures nor will it provide a general appeal mechanism for any decision of the council.**

## **6.7 Membership and meeting arrangements**

- 6.7.1 The Committee shall consist of 12 Members (and up to six substitutes). It shall be appointed annually by the Council and shall be politically balanced.
- 6.7.2 Members appointed to the Committee will:
- (a) be able to provide a sufficient, competent pool capable of carrying out the Committee's programme of work and anticipated number of Sub-Committees hearings for the forthcoming year;
  - (b) make themselves available to participate in the work of the council acting in its capacity as the Licensing Authority; and
  - (c) be required to undertake mandatory training on the functions and responsibilities of the Committee and its Sub-Committees.
- 6.7.3 The Chair will:
- (a) be elected with full understanding of their procedural responsibilities, in accordance with the principles set out in paragraph 3.7.1 in Section 3 of the Constitution;
  - (b) be responsible for Member-to-Member engagement, in particular between the Committee and the Executive Member whose portfolio incorporates licensing-related policy; and
  - (c) lead on other Member-related duties including the appointment of Members of the Committee and non-voting co-optees to Task and Finish Groups.
- 6.7.4 With the agreement of the Chair (or Vice-Chair in the absence of the Chair) and relevant Executive Member, additional meetings of the Committee may also be called if necessary. Sub-Committee meetings will be scheduled as and when required.

## **6.8 Quorum**

- 6.8.1 The Quorum for the Committee shall be four Members.

## **6.9 Delegation of functions**

- 6.9.1 The Committee's functions will be determined in line with Tables A, B and C of this part of the Constitution. The Committee or a Sub-Committee will consider:
- (a) matters which the council's policies dictate the Committee's involvement;
  - (b) appeals being made against an officer's decision; and
  - (c) matters when an officer to whom a decision has been delegated chooses to put the matter before the Committee.
- 6.9.2 A Sub-Committee will consist of any three Members drawn from the full membership of the Committee and appointed for each occasion when it is needed. All Members of the Committee should be given equal opportunities to sit on Sub-Committees following successful completion of the relevant training.
- 6.9.3 Applications made in respect of the Licensing Act 2003 will be brought before the Committee or a Sub-Committee in accordance with any regulations published under the act, the guidance issued under section 182 of the act and summarised in Table A at page 155.
- 6.9.4 Applications made in respect of the Gambling Act 2005 will be brought before the Committee or a Sub-Committee in accordance with the Scheme of Delegation summarised in Table B at page 157.
- 6.9.5 Applications made in respect of sex establishments will be brought before the Committee or a Sub-Committee in accordance with the Schedule of Delegation summarised in Table C at page 159.
- 6.9.6 The Committee or Sub-Committee shall determine taxi licensing-related matters reserved for the Licensing Committee. All other taxi-licensing matters have been delegated to the Head of Housing and Health, acting in consultation with the Chair of the Licensing Committee.

## **6.10 Procedure at meetings**

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

A) will apply.

**TABLE A**

**Licensing Act 2003: Delegation of Functions**

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

| <b>Matter to be dealt with</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>Delegated to Licensing Sub Committee</b>         | <b>Delegated to Officers</b>                                                                                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• Application for personal licence with unspent convictions</li> <li>• Application to review premises licence/club premises certificate</li> <li>• Decision to object when local authority is a consultee and not the lead authority</li> <li>• Determination of a Hertfordshire Constabulary representation to a temporary event notice</li> </ul>                                                                                                                                                                                                               | All cases                                           |                                                                                                                                           |
| <ul style="list-style-type: none"> <li>• Application for personal licence</li> <li>• Application for premises licence/club premises certificate</li> <li>• Application for provisional Statement</li> <li>• Application to vary premises licence/club premises certificate</li> <li>• Application to vary designated premises supervisor</li> <li>• Application for transfer of premises licence</li> <li>• Applications for Interim Authorities</li> <li>• Determination of application for licence, or variation of licence, in respect of community premises: supervision of alcohol sales</li> </ul> | If a relevant representation made and not withdrawn | <ul style="list-style-type: none"> <li>• If no relevant representation made or</li> <li>• If representation made and withdrawn</li> </ul> |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-----------|
| <ul style="list-style-type: none"> <li>• Request to be removed as designated premises supervisor</li> <li>• Decision on whether a complaint is irrelevant, frivolous or vexatious</li> <li>• Determination of application for minor variation</li> <li>• Determination of relevance of representation</li> <li>• Exercise of Responsible Authority Functions of applications and notices submitted to the Licensing Authority under the Licensing Act 2003 (as amended by the Police and Social Responsibility Act 2011) in accordance with the regulations</li> </ul> |  | All cases |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-----------|

**TABLE B**

**Gambling Act 2005: Delegation of Functions**

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

**TABLE C**

**Sex Establishments: Schedule of Delegated Authority**

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

\* *Matters ordinarily delegated to a sub-committee may be referred to the Licensing Committee at the discretion of the Director of Communities after consultation with the Chair and/or Vice-Chair of the Licensing Committee*

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

*\*Although matters will normally be referred to a sub-committee for determination, they may be referred to the full Committee at the discretion of the Director of Communities after consultation with the Chair and/or Vice-Chair*

## **Appendix A**

### **Procedure for Hearings of Licensing Matters**

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

### **Licensing Act 2003 Hearing Regulations - Hearing Procedure**

#### **1. Introduction**

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

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

1.2 A Hearing Panel will also have regard to:

- (a) the Human Rights Act 1998;
- (b) Guidance issued under Section 182 of the Licensing Act 2003 (hereinafter called the "2003 Act" in this Appendix A);  
and
- (c) the council's Statement of Licensing Policy under the 2003 Act.

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

#### **2. Definitions**

2.1 In this document the following definitions apply:

- (a) "applicant/licensee" means the person who has made an application for a licence under the 2003 Act or a person who has served notice of a temporary event in accordance with the 2003

Act or a person who is the holder of a licence under the 2003 Act;

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

### **3. Composition of Licensing Hearing Panels**

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

- (a) any party to the matter in hand;
- (b) the Ward in which any party resides; or
- (c) the Ward in which any premises concerned are located nor themselves live within the vicinity of any premises under consideration

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

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

**4. Notice of Hearing**

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

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

**5. Rights of a Party to a Hearing**

5.1 A party to a hearing:

- (a) may be assisted or represented, whether or not that person is legally qualified;
- (b) is entitled to give further information in support of his, her or their application or representation where the Licensing Authority has given notice that clarification on certain points is required;

- (c) may question any other party if given permission to do so by the Licensing Authority;
- (d) may address the Licensing Authority;
- (e) must be aware that, in the event of non-attendance, the hearing may proceed in his, her or their absence. However, if a party has indicated that they intend to attend the hearing but fail to do so, the Licensing Authority may, where it is in the public interest, adjourn the hearing to a specified date (but see paragraph 6 below). Alternatively, the hearing may be held in that party's absence (in which case the Licensing Authority will consider the application, representation or notice made by the absent party); and
- (f) will be advised of the procedure to be followed (see Schedule 2 below).

**5.2** The following apply:

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

**5.3 Action required by party to a hearing following receipt of notice**

## **of hearing**

- 5.4 A party to a hearing is required to confirm to the Licensing Authority within the period set out in Column 6 of Schedule 1 below:
- (a) whether or not they intend to attend or be represented;
  - (b) whether they consider the hearing unnecessary; and
  - (c) any request, in writing, for permission for any other person to attend (as a witness). Any such request must include the person's name and brief description of the point(s) that person may be able make in order to assist the Licensing Authority at the hearing. Any such request will be considered at the beginning of the hearing but such permission shall not be unreasonably withheld.
- 5.5 The following apply:
- (a) any such request will be considered at the commencement of the hearing; and
  - (b) the submission of the witness must relate to the points contained in the representation made by the party on whose behalf they are appearing. Any other comment(s) must and will be disregarded.

## **6. Dispensing with a hearing**

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

## **7. Withdrawal of representation**

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

## **8. Adjournments and Extensions of time**

8.1 The Licensing Authority may:

- (a) extend any time limit relating to a hearing set out in Schedule 1 if felt in the public interest, provided that any reviews can still be determined within the prescribed time limits and provided that during the transition period the application is not consequently deemed grant or deemed refused;
- (b) adjourn or hold a hearing on additional specified dates where it considers this to be necessary; or
- (c) adjourn to enable a site meeting to be held.

8.2 Notice will be given to all the parties to the hearing stating the period of the extension or the date of the re-scheduled hearing and the reasons for it.

8.3 During the transition period any adjournment or extension of time will not re-schedule the hearing later than the following:

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

## 9. Hearings in Public

9.1 Hearings will take place in public, unless the Licensing Authority excludes the public from any part of a hearing on the grounds that the public interest in doing so outweighs the public interest in the hearing (or that part) taking place in public.

9.2 When the public are excluded from a hearing (or part), any party to the hearing, his, her or their representative and any person called by them as a witness may also be excluded.

9.3 The Chair may require any person attending the hearing who is behaving in a disruptive manner to leave and may determine whether and with what conditions if any they may return.

## 10. Representations and Supporting Documentation

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

## **11. Procedure at a Hearing**

- 11.1 The hearing will proceed in the following order:
  - (a) The Chair will elicit any Declarations of Interests.
  - (b) The Chair will introduce members of the Hearing Panel.
  - (c) The Chair will ask those present to introduce themselves.
  - (d) The Chair will ask all parties to the Hearing whether they are happy to proceed with their application or representation.
- 11.2 The Chair may ask the officer of the Licensing Authority to report:
  - (a) any requests from a party to the Hearing for permission for a witness to appear in support of his, her or their representation. Any such requests will be determined by the Hearing Panel; and
  - (b) any documentary or other information that a party to the Hearing wishes to present. If there is any such material, the Chair will ask all the other parties to the Hearing whether they consent to it being presented. If they agree, the material will be distributed. If not, this material may not be distributed unless the Chair wishes it to be.
- 11.3 The Chair may invite the applicant/licensee or his, her or their representative to estimate the time required to present his, her or their case and ask questions of other parties to the hearing. The Chair will

then ask the other parties to the hearing whether they will require a longer period to present their representation and question the applicant. The Hearing Panel will determine the maximum period of time allowed for each party to put his, her or their case. This decision will be final.

- 11.4 The Chair will ask the Officer of the Licensing Authority to summarise the matter under consideration.
- 11.5 The Members of the Hearing Panel, the applicant, and those making representations may ask questions of the Officer of the Licensing Authority.
- 11.6 Starting with the applicant or licensee, each party will exercise his, her or their rights within the identified maximum time, as follows:
- (a) each party to present his, her or their case, including responding to any points of which the Licensing Authority has previously given notice, and call any approved witness or witnesses in support of his, her or their case; and
  - (b) if given permission by the Chair, and only through the Chair, each party may raise questions of any other party or witness/witnesses.
- 11.7 The applicant/licensee or his, her or their representative will be asked to sum up his, her or their case.

## **12. Determination of Applications**

12.1 In the case of a hearing relating to:

- (a) a counter notice following police objection to a temporary event notice; or
- (b) a review of premises licences following closure order;

the Licensing Authority must make its determination at the conclusion of the hearing.

12.2 In the case of any other hearing, the members of the Hearing Panel may choose to determine the case at the conclusion of the hearing or after the hearing within five working days.

12.3 If determining the case at the hearing, it is for the members of the Hearing Panel to choose whether to retire to consider the case or

discuss the case in front of all parties.

- 12.4 When determining a case, either during the hearing or after, and whether having retired or deliberating in front of the parties, the following shall apply:
- (a) Members of the Hearing Panel will determine the case, not Officers or any other parties;
  - (b) Members of the Hearing Panel will be advised by a Legal Officer;
  - (c) a Committee Support Officer will be available to make relevant notes and make a written record of the Panel's decision;
  - (d) if Members of the Hearing Panel have a question relating to the relevant legislation or the council's policies which the Legal Officer is unable to address, they may seek the advice of an officer of the council's Licensing Team; and
  - (e) if Members of the Hearing Panel wish to attach conditions to an application under consideration they may seek the views of any or all of the parties before determining the case, especially if the details of the possible condition were not discussed with parties during the hearing and/or members of the Hearing Panel do not feel they have as clear a view as possible of the proposed condition's efficacy, applicability and/or acceptability to any or all of the parties.
- 12.5 Once the case has been determined, all parties will be advised of the decision and the reasons for it, together with their right of appeal. If determined at the hearing, the Legal Advisor to the Hearing Panel will advise those present of any advice that has been provided during the determination. If determined after the hearing, the notification of the outcome shall make reference to any such legal advice provided.
- 12.6 A determination may authorise an officer of the Licensing Authority to approve an application subject to conditions to be applied in accordance with the decision made at the hearing.
- 12.7 Whether determined at the hearing or after, the applicant shall be informed of the decision and rights of appeal in writing within five working days of the hearing.

### **13. Recording Proceedings**

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

### **14. Irregularities**

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

## Schedule 1

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

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

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

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

## **Section 7 – The Standards Committee**

7.0 For the purpose of this section, 'Members' includes Town and Parish Councillors.

### **7.1 Membership and meeting arrangements**

7.1.1 The Committee, consisting of no more than ten members (and up to three substitutes), will be appointed annually by the Council and its membership will include:

- (a) Seven Members appointed proportionately; and
- (b) A maximum of three Town or Parish Councillors co-opted as non-voting members.

7.1.2 The Independent Persons shall be invited to attend the meetings of the Standards Committee.

7.1.3 Meetings of the Committee shall be programmed in each year. There shall be two Ordinary Meetings of the Committee each year. Meetings may be cancelled due to lack of business, or additional meetings may be arranged as necessary, in consultation with the Chair of the Committee.

### **7.2 Quorum**

7.2.1 The quorum for the Committee shall be four voting members.

### **7.3 Appointment of Chair**

7.3.1 The Committee Chair will be appointed by the Council at its annual meeting. The Vice-Chair will be appointed by the committee at its first meeting of the civic year.

### **7.4 Terms of Reference**

7.4.1 The Standards Committee has the following functions:

- (a) to promote and maintain high standards of

conduct of Members and Co-opted Members of the Council;

- (b) to advise and assist Town and Parish Councils and Councillors to maintain high standards of conduct and to make recommendations to Town and Parish Councils on improving standards or actions following a finding of failure by a Town and Parish Councillor to comply with its Code of Conduct;
- (c) to manage complaints on behalf of Town and Parish Councils;
- (d) to advise the Council on the adoption or revision of the Members' Code of Conduct;
- (e) to receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the council's assessment criteria;
- (f) to receive reports from the Monitoring Officer and assess the operation and effectiveness of the Members' Code of Conduct;
- (g) to train Members and Co-opted Members to observe the Members' Code of Conduct;
- (h) to assist Members and co-opted Members to observe the Members' Code of Conduct;
- (i) to hear and determine complaints about Members and Co-Opted Members referred to it by the Monitoring Officer;
- (j) to advise the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards or conduct throughout the council;
- (k) to maintain an oversight of the council's

arrangements for dealing with complaints;

- (l) to inform the Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints;
- (m) to appoint the Standards Sub-Committee drawn from three members of the Committee which will exercise, on a delegated basis, the functions as set out in the Sub-Committee terms of reference. The committee should reflect Member representation where practicable;
- (n) to exercise the power to consider and grant dispensations to Members where:
  - (i) the number of Members precluded from transacting the business is so great that it would impede the business of the Council, committee or Executive; or
  - (ii) the political balance is affected to the extent that it could affect the outcome of a vote relating to the business.

## **7.5 Standards Matters**

- 7.5.1 The Monitoring Officer will present a general report on standards matters at each Committee meeting, updating the Committee on the workload of the Monitoring Officer and current standards issues

## **7.6 Standards Sub-Committee**

### **7.6.1 Terms of Reference**

- (a) To consider assessment and investigation reports in respect of Code of Conduct complaints that are referred

to it by the Monitoring Officer;

- (b) To conduct a hearing into an allegation that a Member or co-opted Member of the Council or Town/Parish Council has breached the relevant code of conduct. At such a hearing, the Member against whom a complaint has been made may respond to the investigation report. Following the hearing the sub-committee can make one of the following findings:
  - (i) that the Member has *not* failed to comply with the Code of Conduct and no further action needs to be taken in respect of the matters considered at the hearing;
  - (ii) that the Member *has* failed to comply with the Code of Conduct but no further action needs to be taken in respect of the matters considered at the hearing; or
  - (iii) that the Member *has* failed to comply with the Code of Conduct and a sanction and/or an informal resolution should be imposed.
- (c) The Sub-Committee may impose any action or combination of actions available to it, or impose any informal resolution or combination of informal resolutions as are available to it either by law or policy.
- (d) After making a finding the Sub-Committee shall, as soon as reasonably practicable, provide written notice of its findings and the reason for its decision to the Member and the complainant.
- (e) To apply the council's Standards Complaints Procedure and Complaints Standards Sub-Committee Procedure to hearings before the Sub-Committee.
- (f) All Members who sit on a Standards Sub-Committee must receive mandatory training.

## **7.7 Membership and meeting arrangements**

- 7.7.1 Three voting Members of the Standards Committee shall be appointed to a Standards Sub-Committee (which should aim to achieve cross political party representation wherever possible).
- 7.7.2 The Chair shall be elected by the Sub-Committee at each meeting.
- 7.7.3 The Independent Person to attend the meetings of the Standards Sub-Committee dealing with hearings into allegations of misconduct.
- 7.7.4 A Sub-Committee will be convened as and when required as determined by the Monitoring Officer.

## **Section 8 – Other Committees**

### **8.1 Audit and Governance Committee**

8.1.1 The Audit and Governance Committee will have the specific role of monitoring the Budget, approving the council's Statement of Accounts and acting as the council's audit committee. The Committee also reviews the Council's treasury management functions.

8.1.2 The number and arrangements for this Committee are as follows:

- (a) the Committee will consist of a maximum of seven Members of the Council;
- (b) two Independent non-voting Members;
- (c) the Committee may appoint Sub-Committees;
- (d) no Member of the Executive may be a Member of the Committee;
- (e) Substitute Members to the committee shall be appointed by the Council in accordance with the wishes of the political group to whom the seats have been allocated.

8.1.3 Meetings of the Committee shall be programmed each year. There will normally be between four and six meetings annually. In addition, Extraordinary Meetings may be called from time to time as and when appropriate. A Committee meeting may be called by the Chair, by any four Members of the Committee or by the Monitoring Officer if they consider it necessary or appropriate.

8.1.4 Quorum for the Committee shall be three Members.

8.1.5 The Chair of the Audit and Governance Committee will be appointed by the Council at its annual meeting. The Vice-Chair will be appointed by the Committee at its first meeting of the Civic Year.

8.1.6 Subject to 8.1.5 above, the Chair and Vice-Chair will hold office during that Civic Year until, in each case:

- (a) they resign from the office of Chair or Vice-Chair;
- (b) they are no longer a Councillor; or
- (c) they are removed by a resolution of the Council.

8.1.7 Upon the occurrence of a vacancy in the office of Chair, the Council shall appoint a Chair at its next meeting. In the event of a vacancy in the office of Vice Chair, the Committee shall fill the vacancy at its next meeting.

8.1.8 Terms of Reference - The Audit and Governance Committee have the following functions:

- (a) assist the Council and the Executive in the development of the annual Budget;
- (b) approving the Council's statement of accounts;
- (c) consider the effectiveness of the council's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements;
- (d) seek assurances that action is being taken on risk-related issues identified by auditors and inspectors;
- (e) be satisfied that the council's assurance statements, including reviewing the Annual Governance Statement against the good governance framework, properly reflect the risk environment and any actions required to improve it;
- (f) ensuring Internal Audit and the Audit Committee comply with the Global Internal Audit Standards in the UK Public Sector;
- (g) approving the Internal Audit Charter and Mandate;
- (h) championing and supporting the Internal Audit Service to enable it to fulfil the purpose of Internal Auditing, including its independence, and pursue its strategy and objectives;
- (i) approving the Internal Audit Plan, including Internal Audit's resource requirements;
- (j) considering the Internal Audit annual report and conclusion on risk management, governance and control, as well as update reports from the Chief Audit Executive (CAE) on Internal Audit's work and performance during the year;

- (k) receiving the results on the quality and performance of the Internal Audit Service, including any recommendations, and monitoring any resulting actions;
- (l) communicating both formally and informally with the CAE, including on assurance, risks, and concerns;
- (m) approve the shared anti-fraud service strategy, its plan and monitor its performance;
- (n) consider the reports of external audit (including the annual audit letter) and inspection agencies, and monitor management action in response to the issues raised;
- (o) ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies and that the value of the audit process is actively promoted;
- (p) review the financial statements, external auditor's opinion and reports to Members, and monitor management action in response to the issues raised by external audit; and
- (q) have oversight of the council's commercial projects

8.1.9 As an integral part of its role as the council's audit committee, undertake the following areas:

- (a) consider budget monitoring reports and risk management reports;
- (b) lead the cross Member scrutiny and consideration of the council's draft annual budget and medium term finance strategy;
- (c) scrutinise the council's Annual Investment Strategy, Annual Capital Strategy, Mid-Year Treasury Management Report and Annual Treasury Management Report and through review gain assurance that systems of governance and control for Treasury Management are effective;
- (d) where appropriate, assisting the Council and the Executive in the development of its budget and policy framework by in-depth analysis of financial, procurement and governance related policy issues;
- (e) review anti-fraud and corruption controls and arrangements, including the whistleblowing process.



## **8.2 Human Resources Committee**

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

8.2.2 The Committee, consisting of seven Members (and up to three substitutes) will be appointed annually by the Council and will be politically balanced.

8.2.3 The Committee will meet in accordance with a schedule of Ordinary Meetings, although meetings may be cancelled due to lack of business, or additional meetings may be arranged as necessary, in consultation with the Chair of the Committee.

8.2.4 Quorum

The Quorum for the Committee shall be three Members.

8.2.5 Delegation of Functions

The majority of the Committee's functions will be determined by Officers, as set out in Section 10 of this Constitution. The Committee's Terms of Reference are matters relating to:

- (a) Recruitment and retention;
- (b) Terms and conditions and benefits offered to officers;
- (c) Valuing diversity, with particular reference to achieving a workforce that is representative of our community and achieving a higher level of the equality standard;
- (d) Officer relations issues, including disputes;
- (e) HR services, including definition of processes and implementation of timetables;

- (f) Learning and development, with particular reference to developing officers to ensure that we have the relevant skills to achieve our corporate priorities;
- (g) Absence management;
- (h) The means by which officers' performance should be managed, using performance development reviews (PDRs) and competencies and/or other processes as available;
- (i) The approval and implementation of new and revised HR policies as developed;
- (j) Consideration of current, future and potential initiatives and developments in HR thinking and best practice;
- (k) Acting as the council's steering group to advise it in relation to the discharge of its responsibilities for health and safety by:
  - providing a focus for the consideration of health and safety matters;
  - monitoring the steps taken within the council to ensure the health and safety of its stakeholders; and
  - advising the authority of the steps that may be required to comply with regulations and codes of practice.
- (l) All other matters relating to the employment of officers within the council, in accordance with the council's procedures and delegated authorities.

#### 8.2.6 Procedure at meetings

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



### **8.3 Chief Officer Recruitment Committee**

- 8.3.1 The remit of the Committee is the appointment of Chief Officers.
- 8.3.2 The Chief Office Recruitment Committee will be appointed annually by the Council and will be politically balanced. It will consist of five Members and include at least one Member of the Executive.
- 8.3.3 The Committee will meet as and when required.
- 8.3.4 Delegation of Functions  

The Committee has delegated authority to, on behalf of the Council, select and interview candidates and make recommendations on Chief Officer appointments.
- 8.3.5 Procedure at meetings  

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

## **8.4 Local Joint Panel**

### **8.4.1 Remit**

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

8.4.2 The Local Joint Panel will consist of four Members of the Council ('the Employer') to be appointed annually by the Council and four representatives of officers drawn from the constituent trade union (currently UNISON).

8.4.3 Named substitute Members may be appointed by either side, to attend meetings of the Local Joint Panel in the absence of a Member thereof, provided prior notice is given to the Monitoring Officer.

8.4.4 In the event of any failure to appoint/elect the number of representatives provided for by this Constitution, such failure to appoint/elect shall not invalidate the decisions of the Panel.

8.4.5 If a member of the Local Joint Panel ceases to be a Member or Officer of the council they shall cease to be a member of the Local Joint Panel; any vacancy shall be filled by the Council, the constituent trade union or the combination of the two.

8.4.6 A Chair and a Vice Chair shall be appointed by the Local Joint Panel at its first meeting in each year. If the Chair appointed is a Member of the Council, the Vice Chair shall be appointed from the employees' side, and vice versa. The appointment of the Chair of the Panel shall be rotated on an annual basis between the employer's side and the employees' side. The Chair of a meeting may vote as a Panel member but shall not have a casting vote.

8.4.7 The Deputy Chief Executive or a senior Human Resources Officer shall act as secretary to the employer's side.

8.4.8 The Local Joint Panel shall meet during office hours as and when required, but not less than quarterly. The Chair or Vice Chair may direct Democratic Services to call a meeting at any time. A meeting shall be called within seven days of the receipt

of a requisition signed by at least two Members of either side. The matters to be discussed at any meeting of the Local Joint Panel shall be stated upon the notice summoning the meeting.

- 8.4.9 Agendas shall be prepared by Democratic Services, after discussion with the Deputy Chief Executive (or a senior Human Resources Officer), the Chair and the Vice Chair, and shall be circulated at least five Clear Days before the meeting.
- 8.4.10 Either side will have the right to co-opt, in a consultative capacity, representatives of particular interests affected by a question under discussion which are not directly represented on the Panel but only for the period during which the relevant question is under consideration.
- 8.4.11 Either side shall arrange for the attendance in an advisory capacity of an officer or trade union official at any Panel meeting where it would be helpful to the business under discussion.
- 8.4.12 Attendances at 8.4.10 and 8.4.11 above shall be notified in advance to the Deputy Chief Executive (or a senior Human Resources Officer in his or her capacity as secretary to the employer's side).
- 8.4.13 No recommendation shall be regarded as carried unless it has been approved by a majority of the Members present on each side of the Local Joint Panel, and in the event of either the Local Joint Panel being unable to arrive at an agreement or the relevant council body disagreeing with the Panel's recommendations, then the matter in dispute should be referred to the Executive by way of mediation.
- 8.4.14 The proceedings of any meeting of the Local Joint Panel shall be recorded and reported at the next meeting of the Human Resources Committee.
- 8.4.15 Delegation of Functions

The functions of the Local Joint Panel shall be:

- (a) To establish regular methods of consultation and negotiation between the council and its officers on

matters of mutual concern with the intent of maintaining and developing an efficient service. This process will aim to address differences should they arise with a genuine commitment to seek consensus and enter into agreements, as appropriate. No question of any individual's discipline, promotion, efficiency or conditions of employment shall be within the scope of the Joint Panel;

- (b) To consider any relevant matter referred to it by a Committee of the Council, or by any of the officer organisations;
- (c) To make recommendations to Human Resources Committee and/or a suitable Committee of the Council as to the application of the terms and conditions of service and the education and training of officers of the council;
- (d) To discharge such other functions specifically referred to the Local Joint Panel with the exception of staffing issues;
- (e) To consider matters relating to Health and Safety at Work referred to the Local Joint Panel by an Employee Association or by a Committee of the Council; and
- (f) the trade union(s) recognised by the council shall represent all council officers. This duty will include raising issues on behalf of non-trade union members, should they be requested to do so.

8.4.16 Procedure at meetings shall be in accordance with the Council Procedure Rules, except as provided for in 8.4.17 below.

8.4.17 The Quorum of the Local Joint Panel shall be two representatives of each side.

## **8.5 District Planning Executive Panel**

### **8.5.1 Remit**

To make recommendations to Council, via the Executive, on matters associated with the East Herts Local Plan where it relates to the formal stages of the plan-making process.

To make recommendations to the Executive only on matters associated with the East Herts Local Plan where it does not relate to the formal stages of the plan-making process e.g. evidence base, formulation of strategy.

### **8.5.2 Membership and Meeting Arrangements**

The District Planning Executive Panel (herein referred to as 'the Panel' in this section) will be appointed annually by the Executive and membership will be drawn from the Executive only.

### **8.5.3 The Panel will meet as and when required.**

### **8.5.4 Delegation of Functions**

None – all matters to be subject to recommendations to the Executive and where appropriate Council, in accordance with 8.5.1 above.

### **8.5.5 Procedure at meetings**

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

## **8.6 Joint Committee Arrangements**

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

## **8.7 East Herts/North Herts/Stevenage/Hertsmere CCTV Joint Executive Committee**

Purpose of the Committee

- 8.7.1 To discuss and agree the strategic and policy issues relating to the jointly owned and operated CCTV Control Room and Monitoring Service.
- 8.7.2 To deal with all matters defined under the CCTV 'Code of Practice' as the responsibility of the CCTV Joint Executive Committee
- 8.7.3 To consider operations and performance reports from the CCTV Operations Manager and CCTV Officer Management Board.
- 8.7.4 To consider and approve any location, expansion or contraction proposals and service changes for the overall partnership including; the CCTV Control Room, network, and monitoring service.
- 8.7.5 To consider and agree changes to the CCTV 'Code of Practice'.
- 8.7.6 To ensure the Independent Inspection regime is set up and maintained.
- 8.7.7 To receive and approve the Independent Inspectors' annual report.
- 8.7.8 To consider complaints regarding any breaches of the CCTV 'Code of Practice' and recommendations for preventing breaches and recommend disciplinary action where appropriate.

- 8.7.9 To express views regards the jointly owned company, Hertfordshire CCTV Ltd, to be channeled through the CCTV Officer Management Board.
- 8.7.10 To make recommendations on any of the above to the Officer Management Board.
- 8.7.11 Constitution of the Committee
- The CCTV Joint Executive Committee is constituted as a joint committee of the partner councils. Each partner council shall nominate three elected Members to the Committee. It shall be for each partner council to determine the mechanism for making these appointments.
- 8.7.12 Meetings shall be held at least twice per year or when Members determine there is sufficient business for more frequent meetings.
- 8.7.13 Quorum
- A Quorum shall be four Members with at least one from each of the partner authorities.
- 8.7.14 Chair
- The Chair shall ordinarily be a Member of the Council hosting the meeting although Members present at the meeting may choose a Chair from any Member present.
- 8.7.15 Venue
- The meetings shall alternate between the offices of the partner authorities in whichever way determined by the Members of the Committee.
- 8.7.16 Procedural Matters
- Each meeting shall follow the normal Standing Orders of the council hosting that meeting.
- 8.7.17 The hosting council shall ensure that minutes are taken and made available.
- 8.7.18 Amending the Terms of Reference

Any partner council make request a review and/or amendment of these Terms of Reference at any time.

8.7.19 These Terms of Reference shall be reviewed no less frequently than once every four years.

## **8.8 East Herts Council and Stevenage Council Joint Revenues and Benefits Committee**

8.8.1 This is a joint committee of Stevenage Borough and East Hertfordshire District, under the provisions of section 10 of the Local Government Act 1972 and all regulations made thereunder.

8.8.2 The Terms of Reference of the Committee are as follows:

- (a) To approve the annual service plan for the Shared Revenues and Benefits Service;
- (b) To receive explanations of variances in service performance against the agreed service plan;
- (c) To approve the Budget of the shared service and where so delegated determine requested virements within that Budget;
- (d) To give initial consideration to future development of the shared service and any changes in legislation that may affect service delivery and make recommendations thereon to the Executive or officers; and
- (e) Where it is considered appropriate, report to the Executives of the constituent councils.

8.8.3 The Joint Committee shall consist of three named elected Members from each Council with full voting rights. The Members appointed shall serve on the Committee until successors in office are appointed.

8.8.4 The Joint Committee shall at its first meeting each year, elect

one of its Members to be Chair and one of its Members to be Vice-Chair, with the chair from one Council and the Vice-Chair from the other. These positions shall be rotated annually. The Chair and Vice-Chair shall unless they resign or cease to be Members of the Joint Committee, continue in office until their successors have been appointed.

#### 8.8.5 Quorum

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

#### 8.8.6 Voting

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

8.8.7 The Access to Information Rules (as set out in the Constitutions of the constituent councils) to apply to all meetings.

8.8.8 Each constituent council acts as host to the meetings in alternate years, with the relevant host council convening those meetings, distributing the agenda, clerking the meetings and producing the minutes.

8.8.9 Meetings to be held in January (service planning for coming year) and October for Budgets and mid-year service plan review. Constituent councils are to liaise to confirm mutually suitable times/dates.

8.8.10 The constituent councils will review the Joint Committee's Terms of Reference annually.

## **8.9 East Herts Council and Stevenage Council Joint Information Communication Technology Committee**

### 8.9.1 Purpose

This is a joint committee of the Executives of Stevenage Borough and East Hertfordshire District Councils, under the provisions of section 10 of the Local Government Act 1972 and all regulations made thereunder.

### 8.9.2 The terms of reference of the committee are as follows:

- (a) To recommend the ICT Strategy to the constituent Councils;
- (b) To approve the annual service plan for the Shared ICT Service;
- (c) To receive explanations of variances in service performance against the agreed service plan;
- (d) To approve the expenditure within the budget of the shared service and where so delegated determine requested virements within that budget;
- (e) To give initial consideration to future development of the shared service and any changes in legislation that may affect service delivery and make recommendations thereon to the Executive or officers; and
- (f) Where it is considered appropriate, provide reports to the constituent councils.

### 8.9.3 Constitution of the Committee

The Joint Information Communication Technology Committee is constituted as a joint committee of the partner councils. Each partner council shall nominate three elected Members to the Committee. It shall be for each partner council to determine the mechanism for making these appointments. The Members appointed shall serve on the committee until successors in office are appointed.

#### 8.9.4 Quorum

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

#### 8.9.5 Chair

The Joint Committee shall at its first meeting each year, elect one of its Members to be Chair and one of its Members to be Vice-Chair, with the chair from one Council and the Vice-Chair from the other. These positions shall be rotated annually. The Chair and Vice-Chair shall, unless they resign or cease to be Members of the Joint Committee, continue in office until their successors have been appointed.

#### 8.9.6 Voting

A matter can only be passed by the Joint Committee if no fewer than half of the Members present from each authority vote in favour.

#### 8.9.7 Administration

The Access to Information Rules (as set out in the Constitutions of the constituent councils) to apply to all meetings.

#### 8.9.8

Each constituent council will act as host for the meeting in alternate years and the hosting council will ensure the convening those meetings, distributing the agenda, clerking the

meetings and producing the minutes.

8.9.9 Meetings to be held, as a minimum, in January (service planning for coming year) and October for budgets and mid-year service plan review. Should the Committee deem it appropriate, additional meetings may be held. Constituent councils are to liaise to confirm mutually suitable times/dates.

8.9.10 Review

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

## **8.10 East Herts/Epping Forest District Council/Harlow District Council/Essex County Council and Hertfordshire County Council - Harlow and Gilston Garden Town Joint Committee**

8.10.1 Purpose

This is a Joint Committee of East Herts Council/Epping Forest District Council/Harlow District Council/Essex County Council and Hertfordshire County Council in relation to the Harlow and Gilston Garden Town (HGGT), under the provisions of section 10 of the Local Government Act 1972 and all regulations made thereunder.

8.10.2 To co-ordinate and facilitate the delivery of 16,000 homes in the HGGT by 2033, and 7,000 homes in the years after that along with associated infrastructure.

8.10.3 To have a range of strategic and local policy decision making powers.

8.10.4 Terms of Reference

The operation and scope of the decision making of this Joint Committee are set out in the Inter Authority Agreement ("IAA") which is attached to the Constitution as Appendix 2 "Inter Authority Agreement for the Harlow and Gilson Garden Town Joint Committee".

8.10.5 The IAA includes the Terms of Reference for the Joint Committee in Schedule 10 which sets out the duties and obligations, roles and responsibilities of the Councils to in relation to the delivery of the Joint Committee's objectives.

8.10.6 Voting

The Joint Committee shall consist of five voting members. One elected councillor appointed by each Partner Authority in accordance with that Partner Authority's constitution. To be eligible for membership of the Joint Committee, a councillor must either be: (i) a member of the Executive/Cabinet of their appointing authority; or (ii) a relevant Portfolio Holder within their appointing authority; or (iii) an appointed deputy to either the Leader or a member of the Executive/Cabinet with relevant portfolio of their appointing authority

8.10.7 Quorum

The quorum of the meeting will be five members.

8.10.8 Administration

The Access to Information Rules (as set out in the Constitutions of the constituent councils) to apply to all meetings.

8.10.9 Review period

The constituent councils will review the Joint Committee's terms of reference at least every five years.



# **CONTRACT PROCEDURE RULES**

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## SECTION 1 INTRODUCTION AND GENERAL REQUIREMENTS

- 1.1 These Contract Procedure Rules CPR's These Contract Procedure Rules (CPR's) are a framework of rules, which must be adhered to when purchasing goods, services, works or income generating contracts or disposing of Council property. These Contract Procedure Rules<sup>1</sup> have been established to ensure that the Council is compliant with UK legislation, follows best practice and achieves best value for money in its procurement activities. These Contract Procedure Rules do not apply to employment contracts, contracts for the sale or purchase of land or buildings or any other contracts which are exempt under the Procurement Act 2023 or subsequent/associated UK legislation<sup>2</sup>.
- 1.2 These Contract Procedure Rules promote good purchasing practice, public accountability, data transparency and help protect officers from any complaints. Following the rules is the best defence against any possible allegation that a purchase or disposal has been made incorrectly or inappropriately.
- 1.3 Officers responsible for purchasing goods, services, works or income generating contracts are bound by and have a duty to read and be familiar with these Contract Procedure Rules. these Contract Procedure Rules lay down **minimum** requirements. A more thorough procedure may be appropriate for a particular contract.
- 1.4 Officers must ensure that any necessary pre-purchasing steps have been taken. This may include<sup>3</sup>:
- conducting a value for money review
  - drafting a business case,
  - conducting pre procurement market engagement
  - considering any workforce implications including TUPE
  - health and safety and business continuity requirements
  - complying with *Key Decision requirements*
  - Equality Impact Assessment
  - GDPR (Data Protection)
  - Safeguarding considerations
  - Collaboration opportunities
  - considering Social Value
- 1.5 Unless an exemption provided for in Section 3 has been approved, it is a disciplinary matter to fail to comply with these Contract Procedure Rules. Responsibility for compliance rests with everyone who carries out procurement of goods, services or works (including contracts for consultancy) for or on behalf of the Council. The ultimate responsibility for identifying the need to start a procurement, creating the procurement, managing it through its contract term and requirement to re-procure rests with the Head of Service for the relevant area.
- 1.6 These Contract Procedure Rules should be read in conjunction with the Council's Financial Regulations as appropriate. Officers should also consider the Procurement Strategy when considering embarking on a procurement<sup>4</sup>. These Contract Procedure Rules will be reviewed and updated on a periodic basis (the latest version will be held on the intranet).

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<sup>1</sup> Referred to from now on throughout this document as These Contract Procedure Rules or CPR's

<sup>2</sup> Contact the Recruitment Officer regards employee contracts (for the avoidance of doubt, contracts with agencies or companies who supply temporary staff are subject to CPR's) and the Estates Manager regards contracts for sale of land.

<sup>3</sup> Checklists to help ensure correct steps are addressed are available on the intranet under Procurement

- 1.7 Officers must also ensure that any agents or consultants acting on their behalf in purchasing or disposal matters also comply with the Council’s Contract Procedure Rules, Financial Regulations and with all UK legal requirements.
- 1.8 **Contracts** mean any arrangement, for pecuniary interest, for the supply of goods (including hire, rental or lease arrangements), services or works to the Council. “Pecuniary interest” includes arrangements where the Council pays for goods, services or works and/or where the Supplier has the right to exploit works or services and to generate its income from doing so (i.e. a Concession Contract). Contracts do not include and, these Contract Procedure Rules do not apply to, purely compensatory or supportive arrangements such as grants, although officers must ensure any such arrangements comply with the Subsidy Control Act 2022 and associated regulations. Advice should be sought from Legal Services about any potential subsidy control implications.
- 1.9 The Procurement Act 2023 and Procurement Regulations 2024 set out what is legally required for UK public contracts procurement. This includes some rules for procurements below the Public Contracts Threshold; these have been incorporated into the CPR’s.

1.10 All contracts must be subject to competition, as follows:

|        |                                                           |                                                                                |
|--------|-----------------------------------------------------------|--------------------------------------------------------------------------------|
| Band 1 | Up to £15,000 (£25,000 if Works)                          | One quote (confirmed in writing if greater than £1,000)                        |
| Band 2 | £15,001 – £100,000 (£250,000 if Works)                    | Three quotes to a purchaser specification via the Council’s e-tendering system |
| Band 3 | £100,001 (£250,001 if Works) – Public Contracts Threshold | Invitation to Tender via the Council’s e-tendering system                      |
| Band 4 | Above Public Contracts Threshold                          | <i>Procurement Act 2023 Procedures</i> via the Council’s e-tendering system    |

- 1.11 An officer must neither enter into separate contracts nor select a method of calculating the *Estimated Contract Value* in order to circumvent the application of these Contract Procedure Rules or The Procurement Act 2023. If it is not possible to estimate the value of a contract (for example because the duration is unknown), the contract must be treated as having an estimated value above the Public Contracts Threshold.
- 1.12 Where the value of a contract exceeds £100,000, it should generally (where practicable) be made in the form of a deed and signed under seal by the Council. Should an officer wish to depart from this requirement, authorisation must be given by the applicable Head of Service and Legal Services must first be consulted for advice on the legal implications of doing so. Notwithstanding the forgoing, a contract of any value may be entered into as a deed if requested by the applicable Head of Service or Legal Services – for example where an extended limitation period of 12 years is required (the normal limitation period is 6 years).

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**For Further Advice on these Contract Procedure Rules:**

The authorised version of these Contract Procedure Rules and various supporting written guidance are held on the Council’s intranet site, under “Procurement”.

If you have any queries about these Contract Procedure Rules or the various supporting written guidance please contact one of the following as appropriate:

- Corporate Procurement Manager [procurement@stevenage.gov.uk](mailto:procurement@stevenage.gov.uk)
- Finance – Head of Finance

***If you are unclear about the procurement rules please seek relevant advice before taking any purchasing or disposal action.***

## **SECTION 2 CONTRACT PROCEDURE RULES – PROCUREMENT OBJECTIVES**

All Procurement exercised should take into consideration the following but these are essential for band 4 procurements which are contracts at or above the threshold for The Procurement act 2023 and are known as covered procurements.

- 1.1 In carrying out a covered procurement, a contracting authority must have regard to the importance of—
  - (a) delivering value for money;
  - (b) maximising public benefit;
  - (c) sharing information for the purpose of allowing suppliers and others to understand the authority’s procurement policies and decisions;
  - (d) acting, and being seen to act, with integrity.
- 1.2 In carrying out a covered procurement, a contracting authority must treat suppliers the same unless a difference between the suppliers justifies different treatment.
- 1.3 If a contracting authority considers that different treatment is justified in a particular case, the authority must take all reasonable steps to ensure it does not put a supplier at an unfair advantage or disadvantage.
- 1.4 In carrying out a covered procurement, a contracting authority must—
  - (a) have regard to the fact that small and medium-sized enterprises may face particular barriers to participation, and
  - (b) consider whether such barriers can be removed or reduced.

## SECTION 3 EXEMPTIONS TO THESE CONTRACT PROCEDURE RULES

- 3.1 An exemption under this Section allows an officer to partly depart from the normal contract action required in following these Contract Procedure Rules.

These Contract Procedure Rules shall not prevent expenditure being incurred where an emergency or disaster involving destruction of or danger to life or property occurs or is imminent. Where in the opinion of a Senior Leadership Team (SLT) member, in consultation if possible with the Chief Executive and the Head of Finance (where over £200k the key decision urgency process also applies) the urgency of the situation will not permit delay, nothing in Financial Regulations or these Contract Procedure Rules shall prevent the Council from incurring the expenditure as an exemption. Where the contract value is over £100,001, action under this exemption shall be reported to the next meeting of the Cabinet.

- 3.2 Subject to adhering to The Procurement Act 2023 and any subsequent /associated UK legislation, the following exemptions from the requirement to obtain the requisite number of quotations or tenders must be the subject of prior and written approval by either the Corporate Procurement Manager, Head of Finance, or the Head of Legal and Democratic Services:

- a) For the purchase of goods, works or services which are of a specialist nature or are obtainable from only one or a limited number of Suppliers and there are no other satisfactory alternative options.<sup>5</sup>
- b) Where exceptional circumstances clearly show it is in the best interests of the Council to negotiate a new contract with an existing Supplier.<sup>6</sup>
- c) Unforeseen works or circumstances where delay will adversely impact on the service delivery for the council or access to external funds.<sup>7</sup>Tenders or quotes for similar goods, works or services have been obtained in the last 24 months.
- d) The goods are classed as used or second hand - where the Head of Legal and Democratic Services, the Head of Finance or the Corporate Procurement Manager is satisfied that the market for such goods or materials is such that it would be unreasonable to tender or where the time required to complete the tender process is likely to lead to the loss of opportunity to purchase a used or second hand item and where the relevant officer has ensured that a Value for Money approach has been applied.
- e) Other exceptional circumstances that don't fit with any of the above authorised by both the Corporate Procurement Manager and the Head of Legal and Democratic Services

- 3.3 Once a request to waive These Contract Procedure Rules has been received, a Waiver Action Form will be completed by the Officer requesting the waiver and reviewed by the Approving Officer. A record of the decision approving or rejecting a waiver request and the reasons for it must be kept and an entry made in the waiver request register which will be maintained by the Corporate Procurement Manager

- 3.4 Officers applying the exemption rules in 3.3 must, **as a minimum**, draft a specification and

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<sup>5</sup> The officer must provide evidence to prove that there are no other satisfactory alternatives, such as a recent public notice where no suitable candidates responded.

<sup>6</sup> For example, where the Council have received consultancy services for a complex project and wish to employ the same consultant for additional consultancy services relating to that project, because the use of an alternative consultant would result in the loss of an important skillset or knowledge, which is not easily transferable.

<sup>7</sup> Must have been unforeseeable, not caused by a lack of prompt action by the Council

use the Council's preferred contractual documents, where appropriate (as outlined in Section 5). Unless otherwise stated, Financial Regulations (including key decision processes) will still apply and will need to be adhered to.

- 3.5 Officers must ensure the contract is recorded on the contracts register if an agreed exemption to CPR's results in a change to existing contract details or constitutes the award of a new contract with a value over £5000<sup>8</sup>.
- 3.6 Compliance with UK legislation is considered to satisfy the Council's These Contract Procedure Rules and Financial Regulations. **No exemption shall be granted if the giving of that exemption would cause a breach of The Procurement Act 2023 or subsequent / associated UK legislation.**

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<sup>8</sup> See guidance on the intranet on how this is achieved.

## SECTION 4 SPECIFIC REQUIREMENTS FOR CONTRACTS BELOW £100,000 (BAND 1 AND 2)

### 4.1 Overview

| Band | Estimated Contract Value                       | Minimum No. of Quotes                                           | Contract Signature                                                                               |
|------|------------------------------------------------|-----------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| 1    | Up to £15,000 (£25,000 if Works <sup>9</sup> ) | At least one oral quote (written if over £1,000)                | Officers authorised to sign purchase orders within this value banding.                           |
| 2    | £15,001 to £100,000 (£250,000 if Works)        | At least three written quotations to a purchaser specification. | Officers authorised to purchase orders or seal contracts within this value banding <sup>10</sup> |

Where the preliminary estimated contract value is within 10% of a higher category value, the appropriate provisions for the higher category of contract should be applied (unless the preliminary estimate is based on a firm quote). If the existing contract you are using has a total contract value within the Band 2 threshold and you anticipate the new final contract total may be within the Band 1 threshold, you must still continue to follow the Band 2 process unless the new contract is fundamentally different.

The value of any contract is calculated on the basis of the maximum amount the Supplier could expect to receive under or in connection with the contract (including from payments to be received from the Council or third parties) over the entire contract period to include any optional extension periods. Contract periods should be appropriate to the market in question and not artificially shortened to bring the value into a particular band. It should also be considered if the requirement can be combined across the Council, or combined with similar works e.g. electrical works needed over x years rather than singular works to various buildings over multiple contracts, to provide the council with better value.<sup>11</sup>

### 4.2 Supplier Selection

- 1.1.1 Suppliers invited to quote within these bands can be sourced from any means, including the Internet, suppliers registered on [www.supplyhertfordshire.uk](http://www.supplyhertfordshire.uk) or based on previous satisfactory experience with the Council. There is no requirement to issue public notices for contracts within these bands, although this may be appropriate in some instances. However, when inviting quotations in Band 2, Officers must invite a East Hertfordshire based supplier if one such exists on [www.supplyhertfordshire](http://www.supplyhertfordshire) and is appropriate for the requirement. If no East Hertfordshire based look to Hertfordshire based as this supports the Councils community wealth building agenda. Officers should also document the reasons for selecting the suppliers (such evidence may be required should the decision be challenged at a later date).

If you are sourcing contracts of a similar nature on a regular basis i.e. low value bespoke building alterations it is a requirement to ensure that you invite at least one supplier not invited last time so that more suppliers are given the opportunity to quote for the Council's business.<sup>12</sup>

<sup>9</sup> Works are defined as activities having a Works CPV code see intranet for further guidance on what constitutes a works contract.

<sup>10</sup> As per the authorised contract signatory list on the intranet.

<sup>11</sup> Guidance document "Estimating the total value of your procurement correctly" is available on the intranet under Procurement.

<sup>12</sup> Guidance on supplier selection at quote level is available on the intranet under Procurement

## Framework Agreements

- 1.1.1. Framework agreements let by other contracting authorities, where the council has been named as being able to use the framework agreement, can be used. Examples of contracting authorities that let framework agreements of this nature are: Crown Commercial Services (CCS), Eastern Shires Purchasing Organisation (ESPO), Procurement for Housing (PfH), Homes England, and Yorkshire Purchasing Organisation (YPO).
- 1.1.2. The officer may utilise any of the above purchasing consortiums framework agreements (or any other framework agreements approved by either the Corporate Procurement Manager or Head of Legal and Democratic Services). Any procedures provided by the purchasing consortium must be followed; generally mini competition is likely to achieve the best value as it allows Contractors to submit tailored bids to our requirement.

Direct Award is not available on all frameworks, where it is an option then generally it is only permitted if one of the below applies;

- The framework is sole supplier; or
- Where there is a ranked call off provision; or

Officers wishing to use Direct award for other reasons may apply to do so using one of the Waiver reasons in section 3.

- 1.1.1. When conducting a mini competition the officer must follow the procedures provided by the contracting authority to conduct the mini competition amongst all the capable suppliers on the framework. It is not permitted to include suppliers in the mini-competition who are not listed on the framework.
- 1.1.2. Officers should use existing contracts where these are provided for and suitable, details of which can be found on the shared drive under Corporate> Central Contracts Database. Officers must liaise with the contract manager of the contract before proceeding to ensure they are compliant. All procurement of ICT Hardware and Software must be in consultation with the IT team.

Officers should consider if the requirement could be satisfied by another department through insourcing or through another contract tendered within the council or another public body and contact the relevant team to enquire before going out externally.

- 1.1.3. In exceptional circumstances and for contract values under £1,000 only, an officer may be permitted to contract with a supplier or group of suppliers without first obtaining an oral quote. In this instance, the officer must first submit the request in writing to either the Corporate Procurement Manager, Head of Finance, or the Head of Legal and Democratic Services and obtain his or her prior written approval before awarding the contract(s).<sup>13</sup>

## **4.3 The Invitation to Quote (Band 2 only)<sup>14</sup>**

- 4.3.1 Officers must provide adequate instructions to respondents, outlining what is required (specification), in what format and by when. The Invitation to Quote<sup>15</sup> should also define the award criteria, whether lowest cost or most advantageous quote (See 5.4.1). Officers are

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<sup>13</sup> An example of where this may be acceptable would be contracting with a supplier to top up of the Depot's bulk fuel storage facility. The charge per litre will have been pre-agreed before awarding a contract, but the number of litres to be supplied will not be known until the goods have been supplied.

<sup>14</sup> A checklist is available on the intranet under staff into/finance/corporate procurement to help you through the steps of a quote process.

<sup>15</sup> EHDC invitation to quote templates are available on the intranet under Procurement

reminded that further instructions may be necessary depending on the nature of the contract. For example, specific insurances and equality requirements may be appropriate where the purpose of the contract is to supply services directly to the public.

- 4.3.2 The officer responsible for the purchase may consult potential Suppliers prior to the issue of the Invitation to Quote in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters provided this does not prejudice any potential Supplier.
- 4.3.3 Quotations must be submitted through the In-Tend e-tendering system. If there is a reason why Intend cannot be used, this needs to be agreed with the Corporate Procurement Manager in advance of the procurement<sup>16</sup>. A return date must be specified and adhered to. When using In-Tend the receiving officer can open the returns as soon as the system makes them available.
- 4.3.4 Suppliers must be given a minimum of 5 working days to respond to an invitation to quote, but they may require longer timescales if the contract is considered complex in any way.

#### **4.4 Contract Evaluation and Award (Band 2 only)**

- 4.4.1 To ensure adequate competition, there must be at least two satisfactory responses from the number of quotations requested (and this is expected when conducting a mini competition from a framework as well) i.e. responses which meet a minimum quality standard under which the Council could award the contract. If the Council receives only one satisfactory response, the officer must not open the responses before seeking advice from Corporate Procurement who will determine if the officer should obtain an additional quote, re-run as an advertised process or obtain an exemption under CSO 3.3.
- 4.4.2 All quotes must be evaluated based on the defined award criteria in the Invitation to Quote. Post tender negotiation may be used for certain contracts, in accordance with CPR's 5.7.6 and 5.7.7.
- 4.4.3 If the quoted contract value for the preferred supplier falls into the higher band 3 when processes for the lower Band 2 were followed, the officer must provide either the Head of Finance, the Head of Legal and Democratic Services or the Corporate Procurement Manager with a written explanation and supporting evidence as to the basis for estimating the contract value at the lower band. The Head of Legal and Democratic Services, Head of Finance or Corporate Procurement Manager will decide whether the contract should be re-tendered following the procedures within the higher band.
- 4.4.4 Officers must not agree to contract conditions where payment is made before the goods, works or services are received, unless otherwise approved in writing by either the Corporate Procurement Manager, the Head of Finance, or the Head of Legal and Democratic Services. Staged payments are acceptable but must be proportionate to the cost of the goods, works or services received.
- 4.4.5 Successful and unsuccessful Suppliers should be informed of the decision within 14 days of the closing date and feedback provided if requested.
- 4.4.6 Contracts or agreements over £5,000 must be signed by an authorised signatory. If there is no written contract, the authorised signatory must confirm in writing (either via letter or email) that the quote has been accepted, stating the cost and any other terms (such as payment terms and delivery date) to which the Council is agreeing to. In the absence of a written

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<sup>16</sup> An example of an exemption could be where we are not in a market position to impose the use of Intend.

contract, a Purchase Order containing the above-mentioned information and signed by an authorised signatory is sufficient.

4.4.7 For contracts over £5,000 officers must ensure the details are entered onto the Central Contracts Database<sup>17</sup>.

4.4.8 All documentation must be kept in accordance with the Document Retention Schedule which can be found on the intranet.

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<sup>17</sup> See guidance on the intranet about how this is achieved

## SECTION 5 CONTRACTS BETWEEN £100,001 AND PUBLIC CONTRACTS THRESHOLD<sup>18</sup>

### 5.1 Overview

| Band | Estimated Contract Value                                                           | Minimum No. of Respondents                                 | Contract Signature                                                                                      |
|------|------------------------------------------------------------------------------------|------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| 3    | £100,001 (£250,001 if works) to Public Contract Threshold (see CSO 6.1 for values) | N/A unless Works over £177,500 excluding VAT <sup>19</sup> | Officers authorised to sign Purchase orders within this value banding <sup>20</sup> , unless under seal |

Where the preliminary Estimated Contract Value is within 10% of a higher category value, the appropriate provisions for the higher category of contract should be applied (unless the preliminary estimate is based on good evidence). If the existing contract you are using has a total contract value within the Band 3 threshold and you anticipate the new final contract total may be within the Band 2 threshold, you must still follow the Band 3 process unless the new contract is fundamentally different.

The value of any contract is calculated on the basis of the maximum amount the Supplier could expect to receive under or in connection with the contract (including from payments to be received from the Council or third parties) over the entire contract period to include any optional extension periods. Contract periods should be appropriate to the market in question and not artificially shortened to bring the value into a particular band. It should also be considered if the requirement can be combined across the Council, or combined with similar works e.g. electrical works needed over x years rather than singular works to various buildings over multiple contracts, to provide the council with better value.<sup>21</sup> Collaboration with other Hertfordshire authorities is encouraged and can be promoted via the Hertfordshire Procurement Group by talking to Corporate Procurement.

### 5.2 Supplier Selection: Public Notice & Purchasing Consortium

- 1.1.4. Within this contract value banding, either a public notice or a suitable framework agreement that the council is entitled to use can be used.

#### Public Notice

- 1.1.5. If the chosen method is a public notice, officers must follow the: Open procedure – all Suppliers expressing an interest are sent an Invitation to Tender (ITT) and all responses are evaluated. An exception can be made for Works contracts with a value between the Public Contract Threshold for services and the Public Contract Threshold for Works which allows for conditions of participation to be assessed before issuing the ITT to a limited number of participants.

The Public notice will be placed via the Corporate Procurement team on the Council's E procurement portal, In-Tend- and on the Find a Tender Service website in order to maximise competition. The notice will state how to register on the In-Tend system, the scope of the

<sup>18</sup> Checklists are available on the intranet under Procurement to assist you with the process

<sup>19</sup> If the number of respondents is being restricted invite at least three to tender where sufficient qualify

<sup>20</sup> As per the Authorised Signatory list on the intranet.

<sup>21</sup> Guidance document "Estimating the total value of your procurement correctly" is available on the intranet under Procurement.

requirement and the deadline for submission.

### Framework Agreements

1.1.6. Framework agreements let by other contracting authorities, where the council has been named as being able to use the framework agreement, can be used. Examples of contracting authorities that let framework agreements of this nature are: Crown Commercial Services (CCS), Eastern Shires Purchasing Organisation (ESPO), Procurement for Housing (PfH), Homes England (HE), Yorkshire Purchasing Organisation (YPO).

1.1.7. The officer may utilise any of the above purchasing consortiums framework agreements (or any other framework agreements approved by either the Corporate Procurement Manager or Head of Legal and Democratic Services). Any procedures provided by the purchasing consortium must be followed, generally mini competition is likely to achieve the best value as it allows Suppliers to submit tailored bids to our requirement.

Direct Award is not available on all frameworks, where it is an option then generally it is only permitted if one of the below applies;

- The framework is sole supplier; or
- Where there is a ranked call off provision;

Officers wishing to use Direct award for other reasons may apply to do so using one of the Waiver reasons in section 3.

1.1.8. When conducting a mini competition the officer must follow the procedures provided by the contracting authority to conduct the mini competition amongst all the capable suppliers on the framework. It is not permitted to include suppliers in the mini-competition who are not listed on the framework.

In the same way it is a requirement to obtain two compliant bids when utilising a quotation exercise, the same applies when utilising a mini competition via a framework. Therefore it is vital to conduct some pre market engagement to be sure that the framework is suitable. Some frameworks have the option of an expression of interest to alert potential bidders of the forthcoming competition. Should you be looking to award more than one contract as a result of the mini competition then proportionally more compliant bids must be received.

## **5.3 Pre Market Engagement**

1.1.9. Pre-procurement engagement with the market (including talking to potential suppliers) is encouraged provided that it does not prevent an effective competition taking place when the requirement is put out to the market. In fact, engaging with the market before starting the formal procurement process is best practice and helps to maximise value for money from the resulting procurement.<sup>22</sup>

1.1.10. Officers must conduct an appropriate level of pre market engagement prior to launching the invitation to tender.

As a minimum they must get feedback from some potential bidders to ascertain:

- There is interest in the opportunity at this time
- Our estimate of the value is in the right ball park
- Suggestions on how the service, product or works may be delivered differently.

Advice on conducting pre market engagement is available from Corporate Procurement

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<sup>22</sup> Further information on pre procurement market engagement is available on the intranet under Procurement

## 5.4 The Invitation to Tender

5.4.1 The **Instructions to Tenderers**<sup>23</sup> must, as a minimum, include the following:

- a) List the information which must be provided by the supplier in their response, including any forms, tables or pricing schedules to be completed.
- b) State the method of response required. All tenders shall be issued through the Council's E-tendering System – In-Tend (see CSO 5.5).
- c) Outline a timetable for the remainder of the procurement exercise, detailing the closing date for receipt of responses, the evaluation period and when a response on contract award is expected.
- d) State the method which will be via In-Tend and the deadline for obtaining additional information or clarification (usually 7-14 days before the closing date for receipt of responses) and that additional information requested will be distributed to all suppliers (this should be distributed to all suppliers at the same time through Intend no later than one week before the closing date for receipt of responses<sup>24</sup>).
- e) Outline how the responses will be evaluated, listing the appropriate award criteria and their relative weightings, which shall be based on the "most advantageous tender". The award criteria may include price, service, quality of goods, running costs, previous experience, delivery date, cost effectiveness, relevant environmental considerations, employment considerations, aesthetic and functional characteristics, safety, after-sales services, technical assistance, contract terms and conditions and any other relevant matters. Lowest price must not be used as the sole award criteria unless approved by Corporate Procurement.
- f) The measurement system may include the following 4 elements:
  - Any pass/ Fail considerations
  - A point scoring system for individual quality/value for money considerations.
  - Weightings applied to quality/value for money issues in accordance with their importance to the completion of the contract.
  - A "Quality Threshold" which sets the minimum standard expected. Tenders which fall below this shall be excluded from consideration.
- g) State that late responses will not be considered unless it is proven that a third party is at fault and that the Council is not bound to accept any Tender.
- h) State the price validity period (usually up to a maximum of six months).
- i) Provide a statement to the effect that under the Freedom of Information Act (2000), the Council may be obliged to provide information regarding the procurement exercise or a subsequent contract award and that respondents will be advised of any requests for information and be given an opportunity to comment before disclosure of such information (information whose disclosure would be likely to prejudice anyone's commercial interests is exempt from disclosure provided the public interest in withholding the information outweighs the public interest in disclosing it)

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<sup>23</sup> An template Invitation to Tender can be requested from Corporate Procurement.

<sup>24</sup> A Clarification/Query template spreadsheet is available from Corporate Procurement

- j) The level of economic and financial standing required
- k) The level of insurance required
- l) Any Pass/Fail elements or minimum thresholds to be met

5.4.2 An adequate **specification** must be included. The specification must describe clearly the Council's requirements in sufficient detail to enable the submission of competitive offers.

5.4.3 For contracts within this value banding, the following **Standard Forms**<sup>25</sup> should form part of the Invitation To Tender and should be included in the final contract documentation:

- a) Form of Tender
- b) Certificate that the Tender is Bona Fide
- c) Parent Company Guarantee (if applicable).
- d) Performance Bond Certificate (if applicable).
- e) Insurance requirements

5.4.4 Where appropriate to the type of contract being let, the officer should use standard industry contracts ie JCT<sup>26</sup> or the **Council's own standard contracts**. Where the Council does not supply a suitable standard contract for the type of contract being let, the officer should liaise with Legal Services to identify contract terms relevant to that specific contract. The officer must seek advice from Legal Services if he/she is unclear as to what terms and conditions should be included in the contract. Supplier standard terms and conditions should only be accepted following consultation and approval by Legal Services. In any event, it should be stated in the Invitation to Tender which contract terms will apply to the contract. EHDC's standard clauses and contracts are available from corporate procurement.<sup>27</sup>

5.4.5 Suppliers invited to tender must be given an adequate period in which to prepare and submit a proper tender, consistent with the urgency of the contract requirement. Normally at least **four weeks** should be allowed for submission of Tenders but this can be less if the Contracting Officer has ascertained, during pre procurement market engagement, that a lesser time period is practical and realistic. All tender documents for a contract shall be despatched to the Suppliers invited to tender on the same day via in-Tend.

5.4.6 A tender period can be extended if there are justifiable reasons and it is practical to do so. The reasons for any extension of time should be recorded and communicated in writing to all respondents ideally at least one week prior to the closing date.

5.4.7 Suppliers must demonstrate that they carry a range and level of insurance cover acceptable to the type of contract being let. As a starting point it would be prudent to assume the following minimum levels of indemnity, Public Liability £5m, Employers Liability £10m (although the legal minimum is £5m), Professional Indemnity £2m, Products Liability between £1m and £5m. These must be reviewed for adequacy in light of the various risk factors affecting the contract. Only in very low risk scenarios would levels of indemnity lower than these be acceptable .If in

<sup>25</sup> Standard Forms can be obtained from corporate procurement

<sup>26</sup> Standard amendments to JCT Minor Works or Measured Term contracts are available from Corporate Procurement

<sup>27</sup> It is prudent that Officers obtain the standard clauses and contracts as and when the procurement need arises, as they are subject to change.

doubt, contact the Council's Insurance Officer.<sup>28</sup>

- 5.4.8 The advice of Legal Services must be sought as necessary, particularly for contracts which are complex.

## 5.5 Submission, Receipt and Opening of Tenders

- 1.1.1 Tenders shall be submitted through the Council's E-tendering System – In-Tend. Instructions on how to register on the e-tendering system must be provided in the public notice. The system sends full guidance documents on how to use the system to respondents when they register and has on line guidance at every stage. Within the Invitation to Tender documents respondents must be provided with a contact point in case they experience any problems in using the E-Tendering system. Respondents must also be advised that failure to advise the Council of the problem **before** the deadline for return of tenders will mean they have lost their opportunity to tender. Where a notification of a problem is received in time, consideration should be given to extending the deadline for submission and all tenderers should be advised accordingly of any extension of time.

## 5.6 Not Used

## 5.7 Tender Evaluation

- 1.1.1 The following should be checked by the Officer:
- a) The Tenders are actually from the Suppliers invited to tender (where using a framework or works contracts where a suitability stage was used);
  - b) That there are no errors or omissions in the completion of the documents;
  - c) Where a check of the prices quoted suggest collusion among tenderers or 'ring' pricing, the case should be referred to the Head of Finance;
  - d) If the supplier invited to tender is on the gov.uk debarment list. If they are consult with Corporate Procurement.

- 5.7.2 To ensure adequate competition, there must be at least two satisfactory responses to the Invitation to Tender i.e. two responses which meet the minimum quality threshold. If there is only one satisfactory response, the officer must either re-tender the contract, advising respondents accordingly, or obtain an exemption under CSO 3.3.

- 5.7.3 Where necessary, clarifying some aspect of a Tender response in writing or by way of a meeting is permitted. If a meeting is held then relevant notes should be made of the results of the meeting and matters should be confirmed in writing for contractual purposes.

The officer must use the award criteria and measurement system<sup>29</sup> as set out in the Invitation to Tender.

- 5.7.4 The Procurement process should take no longer than 10 months from issue of advertisement to award of contract. Should the procurement process take longer than 10 months, authorisation must be sought from the Head of Legal and Democratic Services, Head of Finance or Corporate Procurement Manager to proceed with the contract award.

**Within (and below) this contract value banding only, *Post-Tender Negotiations* may**

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<sup>28</sup> An insurance checklist can be found on the intranet under staff info/finance/insurance

<sup>29</sup> A sample criteria and measurement template can be found on the intranet under Procurement.

**only be used** where the officer justifies the need for post tender negotiation in writing to either the Corporate Procurement Manager, the Head of Finance, or the Head of Legal and Democratic Services and that the request is authorised by either the Corporate Procurement Manager, the Head of Finance, or the Head of Legal and Democratic Services in writing. Post-Tender Negotiations will only be authorised when lawful.

- 5.7.5 Negotiations must be conducted by a team of at least two suitable officers with the involvement of Legal Services, as required. Changes should be confirmed in writing for contractual purposes. Where Post Tender Negotiation results in a significant change to the specification (or contract terms) the contract must not be awarded but re-tendered.
- 5.7.6 Officers must not agree to contract conditions where payment is made before the goods, works or services are received, unless otherwise approved in writing by either the Corporate Procurement Manager, the Head of Finance or the Head of Legal and Democratic Services. Staged payments are acceptable but must be proportionate to the cost of the goods, works or services received and must be submitted for checking to Group Accountant (Capital and Treasury), see CSO 5.8.10.
- 5.7.7 If the tendered contract value for the preferred Supplier falls into the higher band 4 (above the Public Contract Threshold) when processes for the lower Band 3 were followed, the officer must provide either the Corporate Procurement Manager, the Head of Finance, or the Head of Legal and Democratic Services with a written explanation and supporting evidence as to the basis for estimating the contract value at that lower band. The Corporate Procurement Manager, the Head of Finance, will decide whether the contract should be re-tendered following the procedures within the higher band.

#### Checks on Financial Status

- 5.7.8 For contracts within this value banding, the officer must ensure the supplier has the level of economic and financial standing that they self certified that they have. To do so obtain two years annual accounts for the preferred Supplier before contract award (unless this is not possible, for example where a company has recently been established). Annual accounts are to be provided to Service Manager (Strategic Finance), who will check that the supplier self certified correctly. Please allow at least 1 week for this process to be completed and give notice that it will be required.
- 5.7.9 If the financial check reveals an unsatisfactory appraisal, yet the officer still wishes to use the Supplier, he/she must submit a written request to the Head of Finance or nominated deputy for his/her approval. Approval will not be given in circumstances where the Supplier has failed any minimum pass/fail requirements set out in the Invitation to Tender or associated procurement documents. Any conditional approval given by the Head of Finance or nominated deputy must be strictly complied with.
- 5.7.10 At the discretion of Corporate Procurement, financial checks may not be necessary for specific Suppliers. For example, where the contracting body is a local authority.
- 5.7.11 All contracts in this value banding with a term of over 24 months or that are considered high risk will need to be registered with Finance for monitoring updates on financial status.

## **5.8 Contract Award and Contract Management**

- 5.8.1 Consult Financial Regulations to ascertain the correct process to gain approval to award<sup>30</sup>

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<sup>30</sup> An Approval flowchart is available to assist on the intranet under Procurement

- 5.8.2 All Suppliers who have expressed an interest in a proposed contract should be notified in writing through the Council's E-tendering system whether they have or have not been successful in winning the contract. Tenderers should be notified of their score against each award criteria, the score the winning tenderer obtained and the name of the winning tenderer. If requested additional feedback should be provided.
- 5.8.3 All contracts in this value band will be in the form of a written contract (see 5.4.6 above) and signed by an authorised signatory of both the Council and the Supplier, unless the contract is required to be sealed under CSO 5.8.7. The written contract must set out (as a minimum):
- a) Description of the work, services or goods (which may comprise the specification);
  - b) The contract price (exclusive of VAT) and payment terms;
  - c) Any performance dates or milestones;
  - d) The contract period including details of any permitted extension options;
  - e) The applicable terms and conditions including provisions for the Council to terminate the contract; and
  - f) Any other applicable contract documents (e.g. tender, correspondence, specification, drawings, KPI's, project brief/proposal and signed/completed Standard Forms (see 5.4.3)). A copy of these documents should form part of the contract.
- 5.8.4 Letters of Intent shall only be used in exceptional circumstances and with the approval of the Head of Legal and Democratic Services who should be satisfied that they are adequately worded.
- 5.8.5 If acceptance of a tender is for any reason delayed beyond the appropriate tender price validity period, the Supplier must be asked to confirm his tender in writing before the acceptance is issued. This letter of confirmation must be included as part of the contract. If the recommended tenderer submits a revised price, Legal Services must be consulted for advice on how to proceed.
- 5.8.6 **For contracts within this value banding**, officers must ensure the details are entered onto the Central Contracts Database **An electronic copy of the contract pack must be provided to Corporate Procurement for the Central Contracts Database followed by a scan of the relevant contract pages holding signatures/seals at point of execution.**<sup>31</sup>
- 5.8.7 The officer may wish to use a contract management checklist to ensure all required steps have been followed. An example checklist can be found on the intranet under "Procurement", although Business Units may use their own forms to reflect their special requirements.
- 5.8.8 All documentation and records of communications pertaining to the tender must be kept in accordance with Document Retention Schedule which can be found on the intranet.
- 5.8.9 The officer must monitor and manage the performance of the Supplier throughout the contract to ensure that requirements are delivered satisfactorily. In performing this task the officer must monitor:
- a) Key performance indicators as set out in the contract where applicable
  - b) Work performance
  - c) Compliance with specification and contract terms and conditions

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<sup>31</sup> Information on process for recording contracts is on the intranet

- d) Cost
- e) Any Value for Money requirements
- f) User satisfaction
- g) Risk management
- h) Variations to the original contract ensuring these are recorded

Further guidance is available on the intranet under "Procurement".

## SECTION 6 CONTRACTS AT OR ABOVE THE PUBLIC CONTRACTS THRESHOLD (BAND 4)

### 6.1 Overview

The value is set by central government and values for 2025 are £214,000 inclusive of VAT for services or supplies and £ 5,372,609 inclusive of VAT for works or concessions. See intranet for current value.

A check list can be found on the intranet to guide procuring officers through the tender exercise (under the “Procurement” section). Further advice should be sought by contacting Corporate Procurement.

The value of any contract is calculated on the basis of the maximum amount the Supplier could expect to receive under or in connection with the contract (including from payments to be received from the Council or third parties) over the entire contract period to include any optional extension periods.

Contract periods should be appropriate to the market in question and not artificially shortened to bring the value into a particular band. It should also be considered if the requirement can be combined across the Council, or combined with similar works e.g. electrical works needed over x years rather than singular works to various buildings over multiple contracts, to provide the council with better value.<sup>32</sup>

Collaboration with other Hertfordshire authorities is encouraged and can be promoted via the Hertfordshire Procurement Group by talking to Corporate Procurement.

### 6.2 Procurement Act 2023

6.2.1 The detailed complex advertising, tendering and reporting processes imposed by the Procurement Act 2023 and Procurement Regulations 2024 are not fully covered in These Contract Procedure Rules. Separate advice and instructions may be issued from time to time by the Corporate Procurement Manager and Legal Services relating to The Procurement Act 2023 and Procurement Regulations 2024. Such advice and instructions These Contract Procedure Rules can be found on the intranet under “Procurement” and should be followed by officers . In the event of any conflict between These Contract Procedure Rules and the Procurement Act 2023/Procurement Regulations 2024, the Procurement Act 2023/Procurement Regulations 2024, will prevail.

6.2.2 Works contracts generally fall under the scope of construction projects, such as new build, or major renovations involving the bringing together of different services and supplies. The Procurement Act 2023 is very specific as to what falls into their definition of ‘Works’ so do not assume ‘Works’ without consulting with Corporate Procurement or Legal Services. If in doubt apply the Services or Supplies thresholds.

6.2.3 ‘Open and Competitive Flexible Procedure are the procurement procedures applied via the Procurement Act 2023<sup>33</sup>, whereby:

- a) in the case of **open procedures**, any interested Supplier may submit a tender;
- b) In the case of **the Competitive Flexible Procedure**, Suppliers must follow the process

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<sup>32</sup> Guidance document “Estimating the total value of your procurement correctly” is available on the intranet under Procurement.

that has been designed. If a request to participate is part of the process then only suppliers invited by the Council after shortlisting may progress to the next stage of the procedure;

- 6.2.4 It is a requirement of the Procurement Act 2023 to conduct some Pre Market Engagement or to state in the tender notice why you didn't publish a preliminary market engagement notice. Therefore it is strongly advised that some formal Pre Market engagement is undertaken and a preliminary market engagement notice published.
- 6.2.5 The advice of the Corporate Procurement Manager and/or Legal Services must be sought where following the Procurement Act 2023, especially if intending to use the Competitive Flexible Procedure.
- 6.2.6 The officer must provide the information needed to enable the procurement team to place notices required by the Procurement Act 2023.  
Some notices are optional but the procurement teams advice must be taken

### **6.3 Supplier Selection**

- 6.3.1 Under the Procurement Act 2023, the officer must liaise with Corporate Procurement to place a Tender Notice to the Find a Tender service. Public notices may also be placed in trade journals and approved Suppliers can be advised of the tender exercise, so long as this is done after the Tender Notice has been published.
- 6.3.2 Framework agreements, Dynamic purchasing systems (DPS) and Dynamic Markets managed by other contracting authorities can be used when the contract value is above the Public Contract Threshold, so long as the contracting authorities have awarded the framework agreement (or DPS/Dynamic Market) in accordance with PCR2015 or the Procurement Act 2023, and on behalf of the Council. Where it is proposed to use any of the above for a procurement above the Public Contract Threshold, approval must first be sought from either the Corporate Procurement Manager, the , or the Head of Legal and Democratic Services and Legal Services must be consulted as to whether the proposed route is legally compliant and any terms and conditions to be used are appropriate. Framework agreements, DPS' and Dynamic Markets must not be used to award concession contracts.
- 6.3.3 Any procedures provided by the purchasing consortium must be followed and the procedure must be undertaken in compliance with the PCR 2015 or the Procurement Act 2023 (as applicable). Generally mini competition is likely to achieve the best value as it allows Suppliers to submit tailored bids to our requirement.
- 6.3.4 Direct Award is not available on all frameworks, and never on at DPS or Dynamic Market, where it is an option then generally it is only permitted if the officer can establish that best value considerations have been taken into account and one of the following apply;
  - The framework is sole supplier; or
  - Where there is a ranked call off provision.

Officers wishing to use Direct award for other reasons may apply to do so using one of the Waiver reasons in section 3.

The officer must follow the procedures provided by the contracting authority to conduct the mini competition amongst the suppliers on the framework. It is not permitted to include suppliers in the mini-competition who are not listed on the framework.

It is expected that when conducting a mini competition at least one more bid than the number of contracts to be let is received, therefore a level of pre market engagement needs to be undertaken to ascertain if this is an appropriate route to market.

## **6.4 Short Listing**

- 6.4.1 Short Listing will be applicable if the Council is using the Competitive Flexible procedure, as outlined in the Procurement Act 2023.
- 6.4.2 For contracts within this value banding (unless utilising an approved framework) a financial check must be undertaken as part of the evaluation process. See CSO 6.7.10.
- 6.4.3 All Suppliers who have expressed an interest in a proposed contract should be notified in writing whether they have or have not been successful in making the next stage promptly after the decision has been made.. Feedback should be provided in the letter.
- 6.4.4 The Supplier's status on the Central Digital Platform and on the debarment list together with any conditions of participation relating to legal and financial capacity to perform the contract and/or technical ability to perform the contract should be considered at the Short listing stage as the Council is generally precluded from taking these factors into account as 'award criteria' within the tender stage.<sup>34</sup> When using the open procedure these factors should be considered as part of the tendering process (although separately to evaluation of tenders).

## **6.5 The Invitation to Tender**

- 1.1.1 The Instructions to Tenderers<sup>35</sup> must, as a minimum, include the following:
- a) Set out how the procurement will be conducted. If not using the open process explaining how the competitive flexible procedure will be conducted;
  - b) List the information which must be provided by the Supplier in their response, including any forms, tables or pricing schedules to be completed and that they need to ensure the information held on the Central Digital platform is up to date;
  - c) State the method of response required. All tenders must be issued through the Council's E-tendering System – In-Tend (see CSO 5.5);
  - d) Outline a timetable for the remainder of the procurement exercise, detailing the closing date for receipt of responses, the evaluation period and when a response on contract award is expected;
  - e) State the method and deadline for obtaining additional information or clarification (usually 14-21 days before the closing date for receipt of responses) and that additional information requested will be supplied to all respondents (this should be supplied to all suppliers at the same time no later than 7 days before the closing date for receipt of responses<sup>36</sup>);

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<sup>34</sup> If you are unsure about the 'conditions of participation' please contact the Corporate Procurement Team

<sup>35</sup> An outline Invitation To Tender can be obtained from Corporate Procurement.

<sup>36</sup> A Clarification/Query template spreadsheet is available from corporate procurement

Set out in detail how the responses will be evaluated, listing the appropriate award criteria and their relative weightings, which shall be based on the “most advantageous tender”. “Lowest price” must not be used as the sole award criteria unless approved by Corporate Procurement ;

- f) “”–“”
- g) State that late responses will not be considered and that the Council is not bound to accept any Tender;
- h) State the price validity period (usually up to a maximum of six months);

Provide a statement to the effect that under the Freedom of Information Act (2000) and the requirements for transparency, the Council may be obliged to provide information regarding the procurement exercise or a subsequent contract award and that respondents will be advised of any requests for information and given an opportunity to comment before disclosure of such information (information whose disclosure would be likely to prejudice anyone’s commercial interests is exempt from disclosure provided the public interest in withholding the information outweighs the public interest in disclosing it)

6.5.2 An adequate **specification** must be included. The specification must describe clearly the Council’s requirements in sufficient detail to enable the submission of competitive offers.

6.5.3 For contracts with an estimated value of over £5m it is mandatory to set at least 3 KPIs unless the Council considers that the supplier’s performance under the contract could not appropriately be assessed by reference to KPIs.

6.5.4 For all contracts within this value band, the following **standard forms** must either form part of the participation document or the Invitation To Tender and should be included in the final contract documentation<sup>37</sup>:

- a) Form of Tender
- b) Certificate that the Tender is Bona Fide
- c) Parent Company Guarantee (if applicable)
- d) Performance Bond Certificate (if applicable)
- e) Insurance requirements

The officer should seek advice from Legal Services as to what terms and conditions should be included in the contract. Where appropriate to the type of contract being let, the officer should use standard industry contracts ie JCT or the **Council’s own standard contracts**. Where the Council does not supply a suitable standard contract for the type of contract being let, the officer should liaise with Legal Services to identify contract terms relevant to that specific contract. The officer must seek advice from Legal services if he/she is unclear as to what terms and conditions should be included in the contract. In any event, it should be stated in the Invitation to Tender which contract terms will apply to the contract. EHDC’s standard clauses and contracts are available from corporate procurement.

6.5.5 A tender period can be extended if there are justifiable reasons and it is practical to do so. The reasons for any extension of time should be recorded and communicated in writing to all respondents with as much notice as possible of the change. For Open tenders a notice must be placed notifying the change to the tender period. This will also apply to the Competitive Flexible Procedure if an extension is made to the first stage within the procurement process.

6.5.6 Suppliers must carry a range and level of insurance cover acceptable to the type of contract being let. As a starting point it would be prudent to assume the following minimum levels of

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<sup>37</sup> Standard forms can be found within the template tender documents available from corporate procurement

indemnity, Public Liability £5m, Employers Liability £10m (although the legal minimum is £5m), Professional Indemnity £2m, Products Liability between £1 and £5m. These must be reviewed for adequacy in light of the various risk factors affecting the contract. Only in very low risk scenarios would levels of indemnity lower than these be acceptable. If in doubt, contact the Council's Insurance Officer.<sup>38</sup>

- 6.5.7 The advice of Legal Services must be sought as necessary, particularly for contracts which are complex.
- 6.5.8 The Procurement Act 2023 lays down specific time periods for submission of Tenders, which must be followed (see guidance in the Intranet under "Procurement"))
- 6.5.9 If the procurement is a mini competition (tender) under an approved framework agreement that has been let in accordance with PCR2015 or the Procurement Act 2023 and covers the Council, then normally at least four weeks should be allowed for the submission of Tenders. This can be less if the Contracting Officer has ascertained, after consultation with all short listed Suppliers, that a lesser time period is practical and realistic.
- 6.5.10 It may be necessary during the tender period for the Council to clarify some aspects of its tender documents. This may be done in writing or by way of a meeting i.e. Bidders Day. Parity of tendering must be preserved so it is important that all tenderers are issued with the same information.
- 6.5.11 Before a tender notice is published, the officer must consider if the requirement could be split into lots. If the requirement could reasonably be split into lots and a decision is made not to do so, reasons for such must be provided in the tender notice.
- 6.5.12 The Public Services 2012 Social Value Act requires commissioners to consider securing economic, social, or environmental benefits when buying services at or above the Public Contracts Threshold. To comply with the Act, commissioners must think about how what they are going to buy, or how they are going to buy it, could add these benefits, and must also consider whether they should consult on these issues. This consideration needs to be documented and retained in line with the councils retention guidance.

## **6.6 Submission, Receipt and Opening of Tenders**

For contracts within this value banding, CSO 5.5 must be followed.

## **6.7 Tender Evaluation**

- 1.1.1 The following should be checked by the Officer:
  - a) The Tenders are actually from the firms invited to tender (Not applicable in an open tender);
  - b) That the Tenderers are not on the debarment list;
  - c) Whether or not Tenderers are "excluded" or "excludable" suppliers;
  - d) Check that the price of the tenders as set out on the Opening of Tenders is correct;
  - e) That there are no errors or omissions in the completion of the documents; and
  - f) Where a check of the prices quoted suggest collusion among tenderers or 'ring' pricing, the case should be referred to the Head of Finance.

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<sup>38</sup> An insurance checklist can be found on the intranet under staff info/finance/insurance

- 6.7.2 Guidance is available from Corporate Procurement on carrying out checks of the debarment list and considering whether a Tenderer is an “excluded” or “excludable” supplier. If a Tenderer is on the debarment list and/or is an “excluded” or “excludable” supplier within the meaning of the Procurement Act 2023, advice must be sought from Corporate Procurement and Legal Services.
- 6.7.3 Where necessary, clarifying some aspect of a Tender response in writing or by way of a meeting is permitted. If a meeting is held then relevant notes should be made of the results of the meeting and as necessary significant matters should be confirmed in writing for contractual purposes. It is possible to upload the notes to the Council’s Intend system if required.
- 6.7.4 The Procurement process should generally take no longer than 10 months from issue of advertisement to award of contract. Should the procurement process take longer than 10 months, authorisation must be sought from the Head of Legal and Democratic Services, Head of Finance or Corporate Procurement Manager to proceed with the contract award.
- 6.7.5 **Post Tender Negotiation must not be conducted unless authorised by Corporate Procurement in consultation with Legal Services. It is unlikely to be agreed except in particularly complex procurements**
- 6.7.6 The officer must use the award criteria and measurement system as set out in the public notice and Invitation to Tender<sup>39</sup>. The measurement system should usually include the following three elements:
- a) A point scoring system for individual quality/value for money considerations;
  - b) Weightings applied to quality/value for money factors in accordance with their importance to the completion of the contract. Any sub-criteria must also be identified at this stage and the appropriate breakdown weighting disclosed;
  - c) A "Quality Threshold" which sets the minimum standard expected. Tenders which fall below this shall be excluded from consideration.
- 6.7.7 All suppliers must be notified in writing through the Council’s E-tendering system whether they have or have not been successful either in making the next stage or winning the contract. Suppliers must be given an assessment summary so they can understand why they scored as they did and a copy of the winning bidders assessment summary (redacted of commercially confidential information). Template assessment summaries are available from Corporate Procurement.
- 6.7.8 Once the assessment summaries have been sent the council can publish a contract award notice. **The contract with the successful supplier must not be entered into until 8 working days (standstill period) after the date on which the contract award notice was published** allowing unsuccessful suppliers time to dispute any decision made. <sup>40</sup> Certain contracts are not subject to a mandatory standstill period but the Council’s default position (absent authorisation from Corporate Procurement) is to apply a standstill period to all contracts valued at or above the Public Contracts Threshold.
- 6.7.9 Officers must not agree to contract conditions where payment is made before the goods, works or services are received, unless otherwise approved in writing by either the Corporate

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<sup>39</sup> A sample criteria and measurement template can be obtained from Corporate Procurement.

<sup>40</sup> Compliant template letters showing the standstill period are available from Corporate Procurement

Procurement Manager, the Head of Finance or the Head of Legal and Democratic Services. Staged payments are acceptable but must be proportionate to the cost of goods, works or services received and must be submitted to Treasury and Capital in Accountancy for checking, please see CSO 6.8.13.

### **Checks on Financial Status**

*(Note 6.4.2 above)*

- 6.7.10 When using the Competitive Flexible Procedure financial appraisals should be conducted at the first stage that may cut down the numbers of tenderers. When using the open procedure, financial appraisals should be carried out as part of the tendering process.
- 6.7.11 At the discretion of Corporate Procurement, financial checks may not be necessary for specific Suppliers. For example, when the contracting body is a local authority.
- 6.7.12 All contracts in this value banding with a term of over 24 months or are considered high risk will need to be registered with Corporate Procurement for monitoring updates on financial status.

## **6.8 Contract Award and Contract Management**

- 6.8.1 Consult Financial Regulations regarding the process to be followed to gain approval to award
- 6.8.2 Officers must obtain and check copies of all documents that were self-certified by the supplier during the tender process before awarding the contract.
- 6.8.3 If acceptance of a tender is for any reason delayed beyond the appropriate tender price validity period, the Supplier must be asked to confirm his tender in writing before the acceptance is issued. This letter of confirmation must be included as part of the contract. If the recommended tenderer submits a revised price, Legal Services must be consulted.
- 6.8.4 A written report must be compiled that satisfies section 98 of the Procurement Act 2023 and records of all communications between the Council and suppliers involved in the procurement process must be retained. The report and records must be kept with the signed contractual documents for a minimum of 3 years from the date the contract is entered into or, if the contract is awarded but not entered into, the date it was awarded.<sup>41</sup>
- 6.8.5 Contract details notices must be published by the Corporate Procurement team on Find a Tender the within 30 days of the day on which the contract is entered into (120 days in the case of a light touch contract) via the Council's E-tendering system – In-Tend<sup>42</sup>.
- 6.8.6 For contracts within this value banding, **an electronic award notification form must be completed and passed to Corporate Procurement<sup>43</sup> An electronic copy of the contract pack must be provided to Corporate Procurement for the Central Contracts Database followed by a scan of the fully signed contract pages holding signatures/seals at point of execution.**
- 6.8.7 On-line Publication is required of a full copy of the contract for contracts valued at over £5mill (redacted for commercially sensitive information). The contract must be published before the end of the period of 90 days (180 days in the case of a light touch contract) beginning with the

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<sup>41</sup> The award notification form contains a page to complete Regulation 98 information advice is available from Corporate procurement.

<sup>42</sup> The Corporate Procurement Team will undertake this task.

<sup>43</sup> The Award notification forms are found on the intranet under Procurement

day on which the contract is entered into, although if possible this should be done at the same time as publishing the contract details notice.

- 6.8.8 For contracts with an estimated value of over £5m it is mandatory to set at least 3 KPIs unless the Council considers that the supplier's performance under the contract could not appropriately be assessed by reference to KPIs. A description of the 3 KPIs which the Council regards as most material to performance of the contract must be set out in the contract details notice. The requirement to set and publish details of KPIs does not apply to concession contracts or light touch contracts, although it is best practice and generally advisable to set KPIs.
- 6.8.9 The officer may wish to use a contract management checklist form to ensure all required steps have been followed. An example checklist can be found on the intranet under "Procurement", although Departments may use their own forms to reflect their special requirements. All documentation and records of communications pertaining to the tender must be kept in accordance with Document Retention Schedule which can be found on the intranet.
- 6.8.10 The officer should provide his or her line manager, or Senior Leadership Team member as considered necessary, with regular reports on the financial position of a contract for budget or funding monitoring purposes and to enable corrective action to be taken as necessary.
- 6.8.11 All interim valuations and final accounts in respect of staged payment contracts must also be submitted for checking by the Group Accountant (Capital & Treasury) for recording in the Central Contracts Database before they are sent for payment to Exchequer.
- 6.8.12 The officer must monitor the performance of the Supplier to ensure that requirements of the contract are delivered satisfactorily<sup>44</sup>. In performing this task the officer must monitor:
- a) Work performance (including KPI's if applicable). If the contract is over £5m then performance must be assessed against KPIs set in accordance with the requirements of the Procurement Act 2023 at least once in every 12 month period and on termination and details of the assessment must be published online. Officers are required to consult with Corporate Procurement on this requirement.
  - b) Compliance with specification and contract terms and conditions.
  - c) Cost
  - d) Any Value for Money requirements
  - e) User satisfaction
  - f) Risk management (to include checking that relevant certificates such as insurance are up to date and financial monitoring is being undertaken)
  - g) Ensure that variations are considered, checking before agreeing that they are lawful and providing information to corporate procurement in a timely manner to enable notices to be published where applicable.
- 6.8.13 Should there be a breach of contract or a failure to perform to the Council's satisfaction, then a contract performance notice may need to be published within 30 days. This applies to contracts awarded under the Procurement Act 2023. Where there are performance issues or where there has been a breach of contract, officers must consult with Corporate Procurement and/or Legal Services on this issue.
- 6.8.14 Mandatory Contract Termination Notices for any contract terminations of Covered Public

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<sup>44</sup> Guidance on contract management is available on the intranet under Procurement

Contracts including natural expiry within 30 days of termination/expiry must be published. Details must be provided to Corporate Procurement team who will publish the required notice.

- 6.8.15 All documents, communications and minutes pertaining to the tender exercise and contract award must be kept in accordance with the Document Retention Schedule which can be found on the intranet under the section marked Freedom of Information.

## SECTION 7 SPECIAL TYPES OF CONTRACTS

### 7.1 Engagement of Consultants

1.1.1 It is important that value for money is obtained when employing consultants.<sup>45</sup> Therefore, for all instances where the Contract Value of a consultancy appointment is over £10,001, the commissioning officer must provide a report to the Head of Service responsible containing as a minimum the details listed under CSO 7.1.2.

1.1.2 Before consultants are invited to bid/tender the Head of Service is responsible for:

- a) identifying the project objectives; and
- b) documenting the reasons for the employment of consultants including the benefits of employing consultants against in house staff or agency staff; and
- c) documenting the residual in-house costs to support the consultant and ensuring that sufficient budget is available to meet all identified costs;
- d) Preparing a project brief with action dates to be recorded against each section, including:
  - (i) background; and
  - (ii) objectives; and
  - (iii) timetable; and
  - (iv) total costs; and
  - (v) performance monitoring arrangements; and
  - (vi) documentation standards; and
  - (vii) contact names and numbers for enquiries

1.1.3 All consultants must provide evidence of adequate professional indemnity insurance prior to their appointment. The requirement for insurance and the levels required should be advertised in the specification of works, if in doubt about the levels required consult with the Council's Insurance Manager

1.1.4 Human Resources must be consulted to help determine if the appointment is within IR35 or if a consultant is appointed and employed through an agency or through the council's payroll the consultant may fall under the Agency Workers Regulations 2010.

1.1.5 It should be a condition of contract with any consultant, agent or professional advisor who is to be responsible to the Council for the award or supervision of a contract on its behalf, that in relation to that contract they shall:

- a) comply with these These Contract Procedure Rules as though they were an employee of the Council; and
- b) produce on request all the records maintained by them in relation to the contract award and award of contract; and
- c) on completion of the contract, transmit all records that they have produced or received that relate to the contract to the appropriate Assistant Director

7.1.4 Any letter of appointment or contract must set out the consultants legal obligations to the Council including where the ownership of intellectual property rights will sit. Advice on intellectual property can be sought from Legal Services. Every written contract shall provide that the consultant shall not assign directly or indirectly the whole or any part of the contract without the written approval of the Council.

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<sup>45</sup> A consultant is a professional who provides expert advice in a specific field; they either operate within the organisation or are employed externally by an organisation for a fee.

## **The Invitation to Quote / Tender**

- 7.1.5 When procuring consultants the total estimated contract value should be used to adopt the procurement band to use.
- 7.1.6 Where it can be demonstrated that there are insufficient suitably qualified consultants to meet the competition requirement, the officer must record in writing the reason why the services are so specialist and obtain an exemption approval as required by paragraph 3.3 of Section 3 of these Contract Procedure Rules to invite fewer consultants.
- 7.1.7 For consultancies over £10,001 related to construction, estates or building surveying work, the use of conditions of engagement is permitted where they are considered appropriate by the Head of service in consultation with Legal Services<sup>46</sup>. Other consultancies over £10,001 including management and IT should use terms and conditions either supplied or approved by Legal Services.

## **Tender Evaluation and Contract Award**

- 7.1.8 The tendering, evaluation and award procedure, as outlined in Section 5, shall apply to all consultancies where the total estimated value is over £100,001 and under the Procurement Act 2023 threshold and in cases below that value where there is a strong likelihood of additional work (i.e. serial or extension contracts), which would bring the total value above £100,001.

## **Contract Monitoring**

- 7.1.9 For contracts over £100,001, the Senior Leadership Team member shall be responsible for ensuring that the Consultants work is properly monitored on an ongoing basis. This includes:
- a) Appointing a named Project Officer or Group
  - b) Specifying key tasks and dates for Consultants
  - c) Monitoring costs against budgets and total contract value (payment schedules should include the agreed fees and the frequency of invoicing)
  - d) Arranging regular progress meetings with Consultants
- 7.1.10 The project officer shall maintain and keep all records pertaining to the tender, award and ongoing maintenance of the contract.
- 7.1.11 The project officer shall maintain the following documentation:
- a) project brief/objectives; and
  - b) minuted authority, where required; and
  - c) the agreement with the consultant and any subsequent variations; and
  - d) records that can demonstrate contractors' compliance with contract standards prior to payments being made; and
  - e) record of payments made to the consultant and for the project; and
  - f) a project evaluation form

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<sup>46</sup> Standard terms and conditions for consultants approved by Legal are those in the services quotation document provided on the intranet under Procurement.

7.1.14 The project officer shall report immediately to the Assistant Director any material technical or financial deviation by the consultant from the specified agreement.

## 7.2 Disposal Contracts

7.2.1 Where items, excluding land and buildings over the cost of £1000 (at the time of purchase) cannot be re-used elsewhere in the Council an note must be sent, explaining why the items are surplus or redundant, any health and safety issues, and the proposed method of disposal. This should be submitted to the relevant Head of Fiancefor approval to proceed with disposal of the items. All vehicles must be disposed of through sale by public auction or by quotations from a reputable dealer.

7.2.2 Where small items of equipment such as keyboards are scrapped under the cost of £1000 (at the time of purchase), they must be recorded on a list held by each relevant Assistant Director and signed off at year end. The list must be passed to the Group Accountant (Capital & Treasury) at year end.

7.2.3 The highest bid received for an item if reasonable should be accepted. One of the following methods of disposal should be used:

- a) Invite quotations or tenders from outside organisations<sup>47</sup>
- b) Sale by Public Auction.
- c) Trade in for a new item when the circumstances are appropriate.
- d) Scrap the items in a safe manner.

7.2.4 The proposed method of disposal should be approved by a Head of Service. All disposals must comply as applicable with the Waste Electrical & Electronic Equipment Directive and Health & Safety legislation. All Council and personal data must be removed from any IT or recording equipment prior to their disposal.

### Competition Rules

7.2.5 Where inviting quotations or tenders from outside organisations the following number of bidders should be invited as follows:

| <b><u>Estimated Value</u></b> | <b><u>Minimum number of bidders to be invited<br/>(for Plant &amp; Equipment only)</u></b> |
|-------------------------------|--------------------------------------------------------------------------------------------|
| Up to £15,000                 | At least one bidder by quote                                                               |
| Over £15,001 up to £100,000   | At least three bidders by quote                                                            |
| Over £100,001                 | At least four bidders by invitation to tender                                              |

7.2.6 Records of the bids received and written approval by an authorised officer to accept the most favourable bidder should be kept. The acceptance will be by letter signed by SLT Member or Head of Service if the value is under £100,000 or a Senior Leadership Team member if the value is over £100,001.

## 7.3 Not Used

## 7.4 Contract Hire and Lease/Rental Agreements

<sup>47</sup> Quotations or tenders can be issued through the Councils Intend e-tendering system if required

- 1.1.1 Contract hire and lease/rental agreements are procurements and are subject to the provisions contained in These Contract Procedure Rules.
- 1.1.2 Before entering into a contract hire or lease/rental agreement the officer shall ensure that the financial implications have been assessed by Accountancy. Lease/Rental agreements can only be signed off following approval from the Head of Finance or their nominated deputy.

## **7.5 Nominated Sub-Contractors and Suppliers**

- 7.5.1 If nominations are to be used then the terms of the contract between the Council and the main contractor should make it clear that the main contractor will be expected to enter into contract with the sub-contractors or Suppliers nominated by the Council.
- 7.5.2 *Tenders* for the nominated sub-contractors or Suppliers will be invited, opened and evaluated by the Council in accordance with These Contract Procedure Rules. The officer shall nominate the successful tenderer(s) to the main contractor.
- 7.5.3 The main contractor will ensure that the main contract indemnifies them against the sub-contractors own obligations in relation to the works, supplies or services included in the sub-contract.

## **7.6 Term Contracts and Framework Agreements**

- 7.6.1 An officer may consider it advantageous to the Council, to invite tenders on a Term basis or under a Framework Agreement where payment is based not on defined works, services or supplies, but on a Schedule of Rates, Bill of Quantities or fixed unit cost over a defined period of time.
- 7.6.2 Unless a long term partnership, term contracts should not exceed five years or in the case of framework agreements four years, but will not normally exceed two years unless the contract contains a price fluctuation clause. It is not permitted to extend a contract that is renewed yearly on more than four occasions without re-tendering. Such cases should be reviewed annually and a written record of the decision (with reasons) to either, extend the contract or carry out a new competitive tendering exercise must be kept. Officers must not enter into contracts that auto renew unless authorised by Corporate Procurement.
- 7.6.3 The relevant procedures and regulations in Sections 3 to 6 of these Contract Procedure Rules are applicable to all Term Contracts.
- 7.6.4 Any Framework Agreement must be tendered in accordance with these Contract Procedure Rules or under The Procurement Act 2023, as applicable.
- 7.6.5 The estimated value of the Term Contract should be based on the full length of the contract (including any options for contract extensions) or for four years if the contract is renewable yearly or is a framework agreement.
- 7.6.6 Where additional items of work are required but not contained within the Schedule of Rates consult with Corporate Procurement to check these are legally valid variations, If agreed all suppliers on the framework agreement or term contract shall be given the opportunity of pricing such items which will then be added to the main Schedule of Rates to be used in the future.

## **7.7 Partnerships & Shared Services**

7.7.1 The term 'Partnership' is used to cover a wide variety of joint ventures and other procurement arrangements. The Senior Leadership Team member or contracting officer shall ensure that the prior approval of The Head of Finance or the Head of Legal and Democratic Services for the proposed partnership arrangement is obtained. The financial implications must be assessed by the Head of Finance and all proposed partnership agreements must be cleared with the Head of Legal and Democratic Services **at the earliest stage**.

7.7.2 All partnership agreements shall include *where relevant*:

- a) The principles of the partnership
- b) Output specification and specified inputs
- c) Partnership board
- d) Open book accounting
- e) Any profit sharing arrangement and payment mechanism
- f) Hierarchy of dispute resolutions mechanisms
- g) Quality and Environment management systems
- h) Asset transfer
- i) Withdrawal arrangements

7.7.3 Partnership agreements which involve a joint venture/contractual arrangement with private sector bodies are subject to the provisions of These Contract Procedure Rules.

7.7.4 A competitive exercise shall be undertaken in accordance with the provisions of These Contract Procedure Rules to select the partner and award the work. In any cases where the proposed partnership would mean that These Contract Procedure Rules of another public sector body would take precedence over those of East Hertfordshire District Council, the written approval of either the Head of Finance or Head of Legal and Democratic Services must first be obtained before any partnership is formalised.

7.7.5 Procurements undertaken through an existing Shared Service will be made using the these Contract Procedure Rules of the contracting lead authority.

## **7.8 Income Generating/Commercial Contracts or Concession Contracts**

7.7.6 All income generating contracts must be subject to competition, as follows:

|               | <b>Estimated Value of the contract to bidders</b> | <b>Minimum Number of Bidders to be Invited</b>                                |
|---------------|---------------------------------------------------|-------------------------------------------------------------------------------|
| <b>Band 1</b> | Up to £10,000                                     | At least one bidder by quote                                                  |
| <b>Band 2</b> | £10,001 – £100,000                                | At least three bidders invited to quote (a minimum of two responses received) |
| <b>Band 3</b> | Above £100,001                                    | Public advertisement used                                                     |

7.7.7 Details of income generating/commercial contracts in band 2 or above must be reported to and approved in writing by a Head of Service.

7.7.8 For contracts with an estimated value above £100,001, CSO 5.5 (regarding the submission, receipt and opening of tenders) must be followed.

7.7.9 Where income generating/commercial contracts also incur a cost to the Council, the cost element may be subject to These Contract Procedure Rules in its own right. In this instance, the advice of the Corporate Procurement Manager, Head of Finance or Shared Legal Service Commercial Law team should be sought.

## **SECTION 8 OTHER CONSIDERATIONS**

### **8.1 Contractual Disputes**

- 1.1.1 The officer should seek the advice and involvement of Legal Services as appropriate in contractual disputes with Suppliers.
- 1.1.2 In the event of a claim from a Supplier for loss or expense incurred (either permitted by the terms of the contract or extra-contractual), seek advice from Legal Services immediately.

### **8.2 Termination of Contracts**

- 8.2.1 Subject to the terms and conditions of the contract, where the Supplier has demonstrably failed to deliver the work, services or goods in accordance with the contract the Council will be at liberty to terminate the contract either wholly or in part and to procure the works, supplies or services of the same or similar description elsewhere, in order to make good such default.
- 8.2.2 Should the Supplier become debarred during the course of the contract consult with Legal Services.
- 8.2.3 Adequate written evidence of poor unacceptable performance must be kept. Such records would include relevant correspondence and records of relevant meetings with the Supplier.
- 8.2.4 For contracts let under the Procurement Act 2023 Contract performance notices may be required and termination notices will be required once the contract is terminated. Involve the Corporate procurement team to ensure appropriate publication.
- 8.2.5 Legal Services must be involved in the termination of any formal contract to ensure that:
  - a) The Council's case for termination is legally sound; and,
  - b) The termination is carried out in accordance with the terms of the contract.

### **8.3 Bankruptcies, Liquidations and Novations**

- 1.1.1 In the event that a Supplier ceases to trade as a result of a bankruptcy, liquidation or otherwise then Legal Services must be involved in any of the following:
  - a) Terminating the contract
  - b) The appointment of new Supplier to complete the work or service;
  - c) Negotiations with liquidator/receiver/administrator
  - d) Assignment of contract and Novation
- 1.1.2 If a Supplier indicates that it wishes to transfer, assign or novate a contract, Legal Services must be consulted prior to any agreement to accept. Equally, if a supplier's business is transferred to another supplier, legal advice must be sought from Legal Services as to whether a novation or assignment is needed and as to any other steps that must be taken before any such assignment or novation is accepted.

## **8.4 Contract Variations**

- 8.4.1 For contracts equal to or above the Public Contracts Thresholds, officers must seek advice from Corporate Procurement and/or Legal Services before any variation is agreed. This includes any contracts below the Public Contracts Threshold where the proposed variation will or may take the overall estimated value of the contract over the threshold.
- 8.4.2 No variation shall take place that contravene the Public Contracts Regulations 2015 or the Procurement Act 2023 in any circumstances.
- 8.4.3 Depending on the circumstance the council may need to publish a public notice prior to committing to the variation and a voluntary standstill period should be considered for contracts equal to or above the Public Contracts Threshold.
- 8.4.4 Variation shall relate to the work specified in an existing contract only and shall not be given in circumstances where a separate contract should or ought to have been entered into. E.g. the variation must not materially change the contract.
- 8.4.5 All variation must normally be issued to the Supplier prior to the relevant work being carried out but, in exceptional circumstances, should be given as soon as possible thereafter.
- 8.4.6 Unless agreed otherwise with Legal Services, variations shall be documented in the form required by the written contract or (if none) documented in writing and signed by an authorised signatory on behalf of the Council and the Supplier. In the case of sealed documents Legal Services must be consulted. Officers should consult with Legal Services if in doubt about the process for formalising a variation (or if support is required).
- 8.4.7 All contract variations regarding contract value or expiry dates for both under and over threshold contracts must be reported to Corporate Procurement to enable the changes to be updated on the Council's contracts register.

## **8.5 Contract Extensions**

- 1.1.1 Term contracts often have the provision for extensions, e.g.. the contract term is 3 years with the option to extend for a further 2 years. When considering taking up the extension option consider if this will be in the councils best interest to extend. e.g. is the service still required in the existing form? Has the market changed? Could re procuring produce a saving? Do the research in sufficient time so that if the answer is re procure there is sufficient time to re procure well, the default should not be to extend because it's not been thought about it in time for any other option. The decision to extend is signed off by the officer with delegated rights to sign contracts of the value of the extension.
- 1.1.2 Should the contract not have provision to extend but is it considered desirable then all requests must be made in writing to either the Corporate Procurement Manager, the Head of Finance or the Head of Legal and Democratic Services for their approval. No extension that contravenes the Public Contracts Regulations 2015 or the Procurement Act 2023 will be granted and no extension to an existing contract shall be given unless it can be clearly demonstrated that a change of Supplier would result in one or more of the following:
  - a) Unacceptable technical difficulties
  - b) A significant and unacceptable increase in costs to the Council
  - c) Significant disruption to the delivery of Council services.

- 1.1.3 Should the value of the extension being requested bring the contract value up to and above the Public Contract Threshold or tip a previously under £5m contract to above that value then consult Corporate Procurement on the implications that brings before making the formal request.
- 1.1.4 It is not permitted to extend a contract that is renewed yearly on more than four occasions without re-tendering. Such cases should be reviewed annually and a written record of the decision (with reasons) to either, extend the contract or carry out a new competitive tendering exercise must be kept. Officers must not enter into contracts that auto renew unless authorised by Corporate Procurement.
- 1.1.5 Legal Services shall be consulted about the process to document the extension.
- 1.1.6 Where the total contract value (including the original contract value) exceeds £5,001, details of the contract extension must be provided to Corporate Procurement for recording on the Central Contracts Database. If a contract record has already been entered on the central register then this will need to be updated with the contract extension details<sup>48</sup>.

## **8.6 Green Environment and Sustainable Sources**

Goods or services which are known to be harmful to the environment, and where there are other adequate options, will not be used. Wherever practical and cost effective, only materials from sustainable sources will be used.

## **8.7 Diversity**

Officers should take steps in the procurement exercise to encourage a diverse and competitive supply market, including small firms, social enterprises, ethnic minority businesses and voluntary and community sector suppliers.<sup>49</sup>

## **8.8 Equality**

The Council must have due regard to the requirements of the public sector equalities duty under the Equalities Act 2010, which must be taken into account when procuring goods, works, or services from external providers.

## **8.9 Innovative Procurement/Abnormal Contract Action**

New or different ways of purchasing goods, services or works, which give better value for money, are encouraged. However, any proposals for innovative procurement or abnormal contract action (including the use of another organisation's Contract Procedure Rules and E-auctions) must be discussed with the Corporate Procurement team and then be cleared by the Head of Legal and Democratic Services to ensure the proposal is legally sound.

## **8.10 Conflicts of Interest**

Officers must be mindful of any conflicts of interest or perceived conflicts of interest at all stages of the procurement process and must document for band 4 procurements as a minimum that this has been considered (and mitigated if needed) at pre procurement, tender, evaluation, and contract management stages. Further guidance is available from

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<sup>48</sup> A variation form to amend central contract database details is available on the intranet under Procurement

<sup>49</sup> Further guidance on how to encourage a diverse and competitive supply market using pre-procurement is available on the internet under Procurement.

Corporate Procurement. Confirmation that this has been done will be required before publishing any notices in relation to the procurement at band 4 or above.

In addition Section 117 of the Local Government Act 1972 provides that, if it comes to the attention of any officer, that the Council has entered or is proposing to enter into a contract in which he or she has “pecuniary” interest, he or she must give notice in writing of that interest to the Authority as soon as is practicable. It is a criminal offence not to comply with this provision.

- a) The register in which the written notice is to be given is held by the Constitutional Services Manager.
- b) “Pecuniary” includes any direct or indirect interest and is defined by reference to Section 95 of the Local Government Act 1972. The Head of Legal and Democratic Services’s advice should be sought in areas of uncertainty.
- c) The requirement to register applies even if the officer is not involved with the Contract.

### **8.11 Freedom of Information Act (2000)**

The Data protection officer or their appointed nominee should be consulted where requests for information on tenders or contracts are received under the Freedom of Information Act (2000). This also includes requests under the Environmental Information Regulations 2004.

### **8.12 Security of Performance and Performance Liability**

In order to protect the Council from non-performance or poor performance in a contract, the officer should consider whether a performance bond or a liquidated damages clause is required and in what form. These are especially relevant for Works and some Service contracts<sup>50</sup>. Legal Services should be consulted about the type and wording of the bond or liquidated damages clause.

Supplier contracts should be checked carefully for any limitations of liability and advice should be sought from the Legal Services. The foreseeable damage to the Council which might arise from the failure on the part of the supplier, any limitation on liability, the insurance carried by the supplier (other than public liability cover) and, security for performance, are all interrelated factors and should be considered carefully as a whole.

### **8.13 TUPE and the Best Value Code of Practice on Workforce Matters**

If contracting out a service or re-tendering a term contract, the Transfer of Undertakings (Protection of Employment) Regulations (“TUPE”) 2006 may apply. This is a very complex area where legal guidance and trade union consultation must be sought at an early stage.

### **8.14 Health and Safety**

Officers must take steps during the procurement exercise and throughout the length of the contract to ensure that health and safety is appropriately covered.

Considerations include:

- Clearly identify all aspects of work to be carried out by the contractor
- Consider the health and safety implications

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<sup>50</sup> Standard templates and further explanations/guidance for performance bonds and liquidated damages clauses can be found in the High Value Services Contract available from Corporate Procurement

- Competency to do the job safely?
- How reliant on sub- contractors and sub-sub-contractors?
- Reputation?
- Prosecutions, notices, accident record?
- Ensure contractors know what is expected
- Show EHDC safety policy procedures, permit systems, contractor guidance and confirm they have been read and understood
- Whether Works contractors should be SSIP or CHAS (or equivalent) registered

Consider requiring your Contractor to:

- Outline recent health and safety performance
- List, with evidence, qualifications, and skills
- Provide safety method statements, risk assessments and Safe Systems of Work (SSoW) demonstrating robust safety measures and practices.
- Be a member of trade organisation or professional body
- Provide clear information about the risks of the operation
- Provide safety rules and procedures
- Provide statistical data in regard to accidents (reportable and non-reportable) incidents and near misses, specifically in regard to work undertaken in the public domain to the respective Council Contract Manager.
- Any employee, contractor or sub contractor working on behalf of EHDC on EHDC premises including tenanted properties must have ID relevant to their employment.
- .

For further guidance, please refer to the Councils Health and Safety Guidance which can be found on the intranet under staff info/hr/health and safety.

### 8.15 Safeguarding Children<sup>51</sup>

All services commissioned by the Council must operate within the requirements of the Council's Safeguarding Children Policy and meet the relevant legislative standards. Where appropriate, procuring officers will need to ensure that contractors demonstrate that they meet these requirements. As an indicator, contractors/agencies must have in place the following:

- Senior Management Commitment to Safeguarding
- Clear, Accessible Statement of Responsibility (including Safeguarding Policy, Complaints, Equal Opportunities and Incident Monitoring Procedures)
- Clear mechanisms for identification and investigation/action regarding safeguarding concerns
- Clear Line of Accountability for Reporting Safeguarding Concerns
- Child and Family conscious service planning and delivery
- Staff Training programme for Safeguarding
- Safer Recruitment Policy
- Information Sharing procedure

### 8.16 Accessibility

Consider whether what you are buying needs to meet new Accessibility requirements - it could be websites / apps or even pdf/reports/pictures – anything that is published by EHDC to the public or to staff<sup>52</sup>

<sup>51</sup> Additional information regarding Safeguarding is available on the Stevenage Borough Council website.

<sup>52</sup> Speak to IT service desk for assistance or <https://www.gov.uk/guidance/accessibility-requirements-for-public-sector-websites-and-apps>

## **8.17 GDPR**

The Council must have due regard to the requirements of the EU law version of the General Data Protection Regulation ((EU) 2016/679) (the “UK GDPR”) and the Data Protection Act 2018. Where processing of personal data is likely to pose a high risk or involve large amounts of personal data, a Data Protection Impact assessment (DPIA) should be carried out to assess the associated risks. Additionally, the supplier (data processor) should be assessed via the council’s supplier assurance assessment to document relevant organisational and security

## **8.18 Social Value**

The Council must have due regard to the Public Services 2012 Social Value Act. As such the Council requires 10% of the evaluation of band 3 procurements and above for services and works to be dedicated to additional social value. See guidance from Corporate Procurement as to how this is implemented..<sup>53</sup>

## **8.19 Modern Slavery**

The council must consider the risk of modern slavery existing within its supply chain. Procuring officers need to research the level of risk that exists in the relevant market. If the risk is medium or high they should consult with Corporate Procurement suitable measures to take above and beyond the questions asked as standard in the EHDC quotation and tender templates available via the intranet or Corporate Procurement.<sup>54</sup>

## **8.20 Fraud Prevention**

The council must comply with the Bribery Act 2010 and consider the risk of fraud within its supply chain. Procuring officers need to think about whether their actions could be perceived as fraudulent or favoring a particular supplier and also be alert to possible fraudulent behavior from bidders during the procurement and evaluation process. Within contract management processes consideration needs to be given to preventing fraudulent behavior by contractors or Council officers. Any suspicion of fraudulent behaviour should be reported to the Shared Anti-Fraud Service or use the Councils Whistleblowing policy<sup>55</sup>.

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<sup>53</sup> See information on the intranet under Procurement

<sup>54</sup> See intranet procurement.

<sup>55</sup> See intranet for more information

## Appendix A - Table of Definitions / Terms

|                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Authorised Contract Signatory | The named officer who has been sanctioned via SLT to sign contract with suppliers to a specified contract value. The list of authorised signatories and respective values is on the intranet.                                                                                                                                                                                                                                                                                                                              |
| Bond                          | A bond is a legally enforceable financial guarantee given by a third party (the guarantor) to the Council to guarantee the obligations of a <i>Supplier</i> under a contract. The guarantor agrees to pay the Council a sum of money if the <i>Supplier</i> does not do what has been promised under a contract with the Council (e.g. a bond is often 10% of the total contract value). The purpose of a bond is to help the Council meet the extra expenses to remedy the contract default and/or complete the contract. |
| CCS                           | Crown Commercial Services - a local authority approved purchasing consortium, which is an executive agency of the Cabinet Office.                                                                                                                                                                                                                                                                                                                                                                                          |
| Contracts Finder              | Government mandated advertising portal for all contract notices and awards under PCR 2015 advertised by Local and National Government and it's agencies.                                                                                                                                                                                                                                                                                                                                                                   |
| Concession Contract           | Means a contract for the supply, for pecuniary interest, of Works or services to the Council where at least part of the remuneration for that supply is the right for the Supplier to exploit the works or services and under the contract the Supplier is exposed to a real operating risk (i.e. a risk they will not be able to recover their costs of providing the Works or services).                                                                                                                                 |
| CPV                           | Common Procurement vocabulary - a list of codes in a hierarchy which defines the requirements. Referred to in the Procurement Act 2023 and used in public notices                                                                                                                                                                                                                                                                                                                                                          |
| CPR                           | These Contract Procedure Rules                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| EHDC<br>ESPO                  | East Hertfordshire District Council<br>Eastern Shires Purchasing Organisation - a local authority approved purchasing consortium.                                                                                                                                                                                                                                                                                                                                                                                          |
| Estimated Contract Value      | Means the estimated total value of a contract, calculated in accordance with paragraph 5.1 of these Contract Procedure Rules                                                                                                                                                                                                                                                                                                                                                                                               |
| Financial Regulations         | The Council's financial regulations set out rules/procedures for financial management and the conduct required of Council staff in dealing with financial matters. They are issued by the <i>Head of Finance</i> and form part of the <i>Constitution</i> .                                                                                                                                                                                                                                                                |
| Framework Agreements          | Framework Agreements are agreements entered into between a contracting authority and one or more <i>Suppliers</i> , setting out the terms and conditions (e.g. pricing mechanisms, quantity and scope of services/supplies/works and duration) under which future purchases (or call offs) can be made throughout the term of the agreement.                                                                                                                                                                               |
| Homes England                 | Homes England is the non-departmental public body that funds new affordable housing in England. It was founded on 1 January 2018 to                                                                                                                                                                                                                                                                                                                                                                                        |

|                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|--------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Insurance cover and indemnity / liability limits | <p>replace the Homes and Communities Agency.</p> <p>Normally, contracts should require suppliers to indemnify (protect) the Council from public liability and employers liability to an appropriate limit, but products liability and professional liability may be required when relevant to a particular contract. The appropriate limit of indemnity should be judged individually depending on the nature of the contract, risk assessment, size of contracting firm etc. A brief explanation of each type of liability follows:</p> <p><b>Public Liability</b> provides indemnity for damages the insured is legally obliged to pay to a third party who has suffered damage or injury as a result of the insured's action. It does not extend to damage or injury suffered by employees of the insured. It does not include pure financial loss suffered as a result of advice given. The contract may include a co-indemnity or cross-indemnity clause, which effectively extends the supplier's cover to include EHDC.</p> <p><b>Employers' Liability</b> provides indemnity for damages the insured is legally obliged to pay to an employee who has suffered damage or injury as a result of the insured's action. The contract should include a wide definition of "employee" so as to include apprentices, work-experience people, and volunteers if appropriate.</p> <p><b>Products Liability</b>, often included as part of general Public Liability Section of a policy, provides indemnity for damages the insured is legally obliged to pay to a third party who has suffered damage or injury as a result of the product for which the insured is responsible.</p> <p><b>Professional Liability (or Indemnity)</b> covers loss or damage (except bodily injury or damage to property) arising from the negligence or accidental error/omission of any official or employee while the Council is acting in a statutory capacity.</p> |
| In-Tend                                          | The Councils E tendering system software, also known as Supply Hertfordshire                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| ITT                                              | Invitation to Tender.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Key Decision                                     | Decisions that are defined as Key Decisions in the <i>Constitution</i> . If the purchase is a Key Decision, the Officer must ensure that all appropriate steps have been taken. If the Contract value exceeds £200,000 or the contract will be significant in terms of its effects on communities living or working in the area, then the purchase is likely to be a key decision (See Decision Making - Section 3 in the Constitution for further information).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Nominated Suppliers and Sub-contractors          | These are sub-contracts specified in the main contract where the Council nominates specific <i>Suppliers</i> or sub-contractors to the main contractor. The main contractor is expected to establish sub-contracts with the <i>Suppliers</i> nominated by the Council.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Novation                                         | The agreed transfer to another <i>Supplier</i> of the full obligations and rights under the contract.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Parent Company                                   | The parent company (or holding company) guarantees the proper                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

|                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Guarantee                                     | performance of a contract by one of its subsidiaries (the contractor). The conditions of the parent company guarantee will usually give the parent company the opportunity to remedy any default within a period of notice before the guarantee is called. The liability can take several forms including a financial guarantee of completion of the project itself or the employment of another <i>Supplier</i> to complete the project. |
| Post Tender Negotiation                       | Post tender negotiation means negotiations with any tenderer after submission of a <i>Tender</i> and before the award of the contract with a view to obtaining an adjustment in price, delivery or content.                                                                                                                                                                                                                               |
| PFH                                           | Procurement for Housing – a local authority approved purchasing consortium, more specifically for Housing                                                                                                                                                                                                                                                                                                                                 |
| Public Contracts Regulations 2015 or PCR 2015 | Public Contract Regulations 2015 are the legally required processes for UK public procurement which were transposed from EU Procurement Directives 2014 along with some UK specific rules (PCR 2015 is often referred to as EU Regulations) These are superseded by the Procurement Act 2023 from 24 <sup>th</sup> February 2025.                                                                                                         |
| Public Contracts Threshold                    | Means the threshold amount for a particular contract to be classified as a "public contract" and subject to the substantive requirements of the Procurement Act 2023, as set out in Schedule 1 of the Procurement Act 2023 and as updated from time to time.                                                                                                                                                                              |
| Procurement Act 2023                          | Legislation in force from 24 <sup>th</sup> February 2025 succeeding PCR2015                                                                                                                                                                                                                                                                                                                                                               |
| Quotation                                     | "Quotation" means an offer to supply or purchase goods, or materials, execute works or provide services including consultancy, at a stated price based on terms and conditions agreed with the <i>Supplier</i> . For the purpose of These Contract Procedure Rules, the Council uses the term 'Quote' rather than 'Tender' for the more simplistic procurement process to be followed for estimated contract values below £100,000.       |
| SBC                                           | Stevenage Borough Council                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Short Listing                                 | Where <i>Suppliers</i> are selected: <ul style="list-style-type: none"> <li>• to quote or bid or</li> <li>• to proceed next stage of the process.</li> </ul>                                                                                                                                                                                                                                                                              |
| Supplier                                      | Any person, organisation or economic operator who supplies the Council with Goods, Works or Services. For the purpose of These Contract Procedure Rules, the term supplier includes contractors, consultants and service providers.                                                                                                                                                                                                       |
| Senior Leadership Team member                 | The Heads of Service, Deputy Chief Executive and Chief Executive.                                                                                                                                                                                                                                                                                                                                                                         |
| Tender                                        | "Tender" means a formal offer to supply or purchase goods, or materials, execute works or provide services including consultancy, at a stated price based on set terms and conditions. For the purpose of These Contract Procedure Rules, the Council uses the term 'Tender'                                                                                                                                                              |

as opposed to 'Quote' for the more complex procurement procedure required for estimated contract values over £100,001.

|       |                                                                                                                                                                                                                        |
|-------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| TUPE  | Transfer of Undertakings (Protection of Employment) Regulations                                                                                                                                                        |
| Works | are (for the purpose of the PCR 2015) given the meaning set out in the PCR 15 and (for the purpose of the Procurement Act 2023) activities having a "works" CPV code in Schedule 3 of the Procurement Regulations 2024 |
| YPO   | Yorkshire Purchasing Organisation - a local authority approved purchasing consortium                                                                                                                                   |

**Appendix B**

**Notice requirements of Procurement Act 2023**

## **Section 10 – Officers’ Responsibility for Functions**

### **10.1 Introduction**

10.1.1 The Council has adopted a Corporate Plan with four strategic priorities to be listening, open and transparent, environmentally focussed, acting with the community and fair and inclusive. To enable that vision, managerial and operational decisions are taken, within a framework of democratic accountability at the most appropriate level. The scheme is to be interpreted widely to give effect to this overall purpose by empowering staff to carry out their functions and deliver the council’s services within the Budget and Policy Framework set by the Council, and subject to the guidelines set by the Executive and the council’s Leadership Team.

#### Overall Limitations

10.1.2 The exercise of Delegated Powers is subject to the following overriding limitations.

10.1.3 Where broad functional descriptions are used, the delegations in this scheme should be taken to include powers and duties within all present and future legislation, and all powers incidental to that legislation, including the incidental powers and duties under Section 111 of the Local Government Act 1972.

#### Sub-Delegation

10.1.4 Any Officer with Delegated Powers in this scheme is also authorised to further delegate in writing all or any of the delegated functions to other Officers (described by name or post) either fully or under the general supervision and control of the delegating Officers. Administrative functions ancillary to the exercise of Delegated Powers are deemed to be carried out in the name of the officer exercising the function.

## Further Provisions

- 10.1.5 It shall always be open to an officer not to exercise their Delegated Powers but to refer the matter to the Council, Executive, or relevant Committee (as appropriate) for decision.
- 10.1.6 In exercising Delegated Powers, Officers shall consult other Officers as appropriate and have regard to any advice given. In particular, Officers must have regard to any report by the Head of Paid Service or the Monitoring Officer under Sections 4 and 5 of the Local Government and Housing Act 1989.
- 10.1.7 In exercising Delegated Powers, Officers shall consider whether the matter is controversial or major and if so shall as appropriate consult or inform the relevant Executive Member(s) and/or Ward Member(s).

## **10.2 Member Consultation**

- 10.2.1 Officers exercising Delegated Powers in accordance with this scheme are expected in appropriate cases to:
- (a) maintain a close liaison with the appropriate Executive Member or in their absence the Leader or another Executive Member;
  - (b) in the case of temporary or project specific delegations, Officers will consult relevant Executive Members;
  - (c) ensure the Ward Members are consulted or advised of the exercise of Delegated Powers;
  - (d) ensure that the Chief Executive, the Director for Finance, Risk and Performance, Shared Corporate Legal Service Manager and the Monitoring Officer are consulted and advised of any decisions as necessary; and

- (e) before exercising any delegated power, Officers must consider whether to exercise the delegated power or refer the matter to the relevant Member or member body to decide.

### **10.3 Reservations**

10.3.1 This scheme does not delegate to Officers:

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

### **10.4 Restrictions**

10.4.1 Officers may only exercise Delegated Powers in accordance with:

- (a) statutory requirements, guidance and codes of practice;
- (b) the Budget and Policy Framework, including all plans, schemes and strategies approved by or on behalf of the Council or Executive;
- (c) the council's Procedure Rules including Financial Limits; and
- (d) the council's equalities and other policies, procedures, standards and the Local and National Conditions of Service.

### **10.5 Delegation in the case of absence or inability to act**

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

- 10.5.2 The duties of the Monitoring Officer and the Chief Financial Officer can be carried out by a deputy, nominated by them, in cases of absence or illness.
- 10.5.3 The Head of Paid Service may nominate a deputy in the event of absence or illness.

## **10.6 Permissions**

### **10.6.1 Chief Executive, Deputy Chief Executive, all Directors and their duly authorised officers**

The delegations that follow apply to the Chief Executive, Deputy Chief Executive and Directors or their duly authorised Officers when acting in accordance with the Rules of Procedure as described elsewhere in this Constitution. This scheme delegates to post holders named or described in the Areas of Responsibility section all the powers and duties relevant to those areas of responsibility that rest with the Council or Executive or which have been delegated or granted to the Council, subject to the limitations, restrictions and reservations set out above, within the delegations below and the detailed scheme of delegation. This includes all powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation including but not limited to:

#### **10.6.1.1 Powers in relation to staff**

Take any action in accordance with the council's agreed policies and procedures with respect to the:

- (a) recruitment, appointment, promotion, training, grading, discipline of staff;
- (b) determination of wages and salary scales, determination of allowances of staff; and
- (c) determination and application of conditions of service, including but not limited to allocation of

leave, honorariums, ill health retirements and determination of establishment except as specifically delegated to the Deputy Chief Executive or Senior Human Resources Officer, except as detailed in the Officer Employment Procedure Rules.

#### **10.6.1.2 Powers in relation to contracts and property**

Powers in relation to:

- (a) contracts and property agreements to negotiate;
- (b) put out to tender, bid, submit Tenders, vary, terminate, dispute, extend and renew; and
- (c) in relation to contracts to buy and sell and in relation to the property to acquire, dispose of, let and licence except as detailed in the council's Financial Regulations and Contract Procedure Rules in Section 9 of this Constitution.

#### **10.6.1.3 Powers in relation to finance**

Powers to:

- (a) incur capital and revenue expenditure;
- (b) to seek recovery of amounts owed;
- (c) to exercise discretion in recovery;
- (d) alter or waive repayment periods or approve exemptions in relation to repayments;
- (e) agree refunds, reduce or remit payments and waive fines, as detailed in the Financial Regulations and Contract Procedure Rules in Section 9 of this Constitution.

#### **10.6.1.4 Powers in relation to legal action**

Powers to:

- (a) authorise, appoint or nominate Officers;
- (b) investigate, prosecute, enforce, lay summons, require individuals to disclose information;
- (c) serve requisitions for information, publish information, apply to a court, sign notices, issue, serve, vary, revoke and publish notices and orders, including fixed penalty notices and serve documents;
- (d) make prohibition orders, suspend or vary a prohibition order;
- (e) take emergency remedial action, carry out works in default, issue certificates, issue consents, issue licences, issue permits, refuse vary or revoke licensing applications or licences or consents;
- (f) issue temporary exemption notices, obtain, introduce, operate, amend extend, vary and revoke orders; and
- (g) impose conditions, introduce and maintain registers, exercise powers of entry without force, apply for a warrant and in relation to land relevant to the service functions to note applications for licences, planning, consent and approvals, declarations and grants except as specifically detailed in the delegations below.

These powers shall be taken with reference to the Shared Corporate Legal Service Manager where relevant.

## **10.7 Areas of responsibility**

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

## 10.8 Officer Specific Delegations

|                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                    |
|--------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Chief Executive and Deputy Chief Executive</b></p>                 | <p>Overall responsibility for the delivery of the Council’s vision through the delivery of the Corporate Strategic Plan, including cross cutting individual initiatives and projects and the leadership and management of the organisation as a whole.<br/>           Legal Services<br/>           Democratic Services<br/>           Electoral Services<br/>           Information Governance and Protection</p> |
| <p><b>Director for Regeneration, Customer and Corporate Services</b></p> | <p>BEAM<br/>           Customer Services<br/>           Corporate Support Hub<br/>           Communications and Digital Media<br/>           Parking Services<br/>           Old River Lane</p>                                                                                                                                                                                                                    |
| <p><b>Director for Finance, Risk and Performance</b></p>                 | <p>Financial Services<br/>           Risk and Insurance<br/>           Revenues and Benefits Shared Service<br/>           ICT Shared Service</p>                                                                                                                                                                                                                                                                  |
| <p><b>Director for Communities</b></p>                                   | <p>Property Services<br/>           Housing Services<br/>           Licensing and Enforcement<br/>           Environmental Sustainability<br/>           Economic Development<br/>           Community Wellbeing and Partnerships<br/>           Shared Waste Services</p>                                                                                                                                         |
| <p><b>Director for Place</b></p>                                         | <p>Planning and Building Control (including Gilston)<br/>           Leisure, Parks and Open Spaces<br/>           Environmental Health<br/>           Land Charges and Street Naming and Numbering<br/>           Section 106</p>                                                                                                                                                                                  |

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

## **10.9 The Chief Executive**

10.9.1 The Chief Executive has been appointed the council's Head of Paid Service.

10.9.2 The following powers and duties are delegated to the Chief Executive. With the exception of 10.9.2(q) below, for which there are separate arrangements, if they are absent or otherwise unable to exercise the delegation, they may be exercised by the Deputy Chief Executive. In the case of 10.9.2(e) below, should the Chief Executive and Deputy Chief Executive be absent or unable to act, the power may be exercised by a Head of Service:

- (a) to carry out the powers and duties of any of the Officers in their absence or in consultation with them (excluding the statutory functions of the Monitoring Officer and the Section 151 officer);
- (b) to authorise a Director to act in their absence on any matter within their authority;
- (c) all matters relating to staffing, employment, terms and conditions and industrial relations for the council's workforce, save those matters which have been delegated to Directors above and those relating to the Head of Paid Service and Chief Officers;
- (d) to determine changes within the management structure where these involve substantial changes to responsibilities of first and second tier posts;

- (e) where emergency action is required, to take any action, including the incurring of expenditure;
- (f) to exercise the functions of the Head of Paid Service under the provisions of the Local Government and Housing Act 1989;
- (g) in cases of urgency take any decision which could be taken by the Council, the Executive or a Committee in consultation with the Leader, provided that any such decision shall be reported to the next meeting of the Executive, appropriate Committee or Council unless there is a need for confidentiality, in which case the reporting of the decision may be deferred until the need for confidentiality expires;
- (h) to alter the areas of responsibility of the Directors set out in the Areas of Responsibility section of this scheme;
- (i) to issue redundancy notices immediately it becomes apparent that redundancies are likely to arise, subject to any policy constraints which may be applied;
- (j) to rearrange dates and times of meetings, previously approved, following consultation with the Leader of the Council; such action being necessary in the interests of the efficient running of the Council;
- (k) to respond, in consultation with the Leader, to consultation documents in accordance with the council's approved policies;
- (l) to negotiate and settle claims by or against the council where this is considered to be in the best interests of the council in consultation with the relevant Director and Shared Corporate Legal Service Manager;

- (m) to carry out all duties and responsibilities and exercise all power under the Localism Act 2011 in relation to a Community Right to Challenge and where appropriate to nominate Officers to carry out those duties or appoint external Officers to carry out part or all of those duties or exercise powers;
- (n) having consulted where appropriate with the relevant Member, to issue news releases and to call press conferences;
- (o) to issue and renew authorisations for Officers, and appoint inspectors to enter premises for the purpose of their official duties, in pursuance of statutory provisions in that behalf;
- (p) after consultation with the Shared Corporate Legal Service Manager /Monitoring Officer to make revisions and amendments to the list of Politically Restricted Posts maintained under Section 2 of the Local Government and Housing Act, 1989 and to give Certificates of Opinion in connection with applications for exemption;
- (q) to act as Returning Officer, and any variation thereof as appropriate to different elections, and to appoint from time to time such Deputy Returning Officers as appear necessary for the proper conduct of elections; and to act as the Electoral Registration Officer, and appoint deputy Electoral Registration Officers. In the event that the Chief Executive is absent or incapacitated, the Proper Officer for the purposes of exercising the functions of the Electoral Registration Officer shall be the Assistant Director – Democracy, Elections and Information Governance;
- (r) within approved budgets, to determine all fees for functions carried out in respect of electoral registration and elections;
- (s) in consultation with the Leader to designate an officer of the council as its Monitoring Officer.

- (t) to designate a polling place for each polling district under Sections 18 and 18B of the Representation of the People Act 1983; and
- (u) to undertake a review of polling districts and places under section 18C of the Representation of the People Act 1983.

#### Shared Corporate Legal Service Manager

- 10.9.3 To carry out all legal action as specified under Permissions above in consultation with the relevant Director or their appointed deputy in their absence.
- 10.9.4 To act as Chief Legal Officer to the Council and take all necessary steps in legal proceedings authorised by the council.
- 10.9.5 To authorise the institution, defence, withdrawal or settlement of any legal proceedings, civil or criminal, including Employment Tribunals (other than for Health and Safety proceedings, council tax, non-domestic rates and sundry debts) at their discretion
- 10.9.6 To negotiate and settle any claim or disputes without recourse to Court proceedings including the use of alternative dispute resolution.
- 10.9.7 To authorise Officers of the council to appear before the Magistrates' Court or County Court District Judges, including under sections 222 and 223 of the Local Government Act 1972.
- 10.9.8 To certify resolutions and documents as being correct.
- 10.9.9 To obtain Counsel's Opinion, instruct Counsel to appear on behalf of the Council and/or retain the services of other experts or external solicitors whenever they consider such action advisable.

- 10.9.10 To insert and cancel entries in the Local Land Charges Register and otherwise to take all steps in respect of searches.
- 10.9.11 In consultation with appropriate Officers, to grant wayleaves to statutory undertakers.
- 10.9.12 To undertake the role of Senior Responsible Officer under the council's Regulation of Investigatory Powers Act 2000 (RIPA) Policy.
- 10.9.13 To fix charges for legal work carried out by the council, including for external bodies.
- 10.9.14 To institute legal proceedings in respect of any contravention of any licences, permits or consents and/or any breach of any condition attached thereto.
- 10.9.15 To sign, and where appropriate, affix the Common Seal of the Council to, any deed or other document, which, in his or her professional judgment, is necessary or desirable to sign and seal.
- 10.9.16 To authorise suitably qualified and experienced Officers to exercise powers and duties afforded to District Councils in the relevant legislation

Monitoring Officer

- 10.9.17 To hold and revise the list of politically restricted posts, in consultation with the Chief Executive and advise on all applications from council employees (or prospective employees) for exemption from political restriction in respect of their posts including, where appropriate, signing the Certificate of Opinion required by the independent adjudicator under the Local Government and Housing Act 1989.
- 10.9.18 To carry out a review and submit a report to Council as to the allocation of seats in accordance with the Local Government and Housing Act 1989 political balance provisions.

10.9.19 To authorise changes to the Constitution to reflect resolutions of Council or of the Executive, and changes of fact and law, or if required for practical purposes, in order to ensure the proper administration of the Council, subject to regular notification to all Members of such changes.

10.9.20 To appoint the members of the Independent Remuneration Panel, having first consulted the Chief Finance Officer and Group Leaders as to any reason why someone may not be considered independent.

## **10.10 Deputy Chief Executive**

10.10.1 To carry out the role of the Chief Executive and Head of Paid Service in their absence.

10.10.2 To lead on cross cutting projects spanning the council.

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

10.10.4 To take emergency action necessary for the safety of the public or the preservation of property of the council.

### Human Resources

10.10.5 Human Resource matters should be subject to the overall direction of the Head of Paid Service.

10.10.6 To interpret, administer and implement the council's organisational, employee development and human resources plans and policies in consultation with Leadership team.

10.10.7 To interpret and apply pay scales and conditions of service for all employees.

10.10.8 To administer the granting of awards and application of benefits in consultation with Leadership team.

- 10.10.9 To be responsible for an effective policy for the health, safety and welfare of council employees to be implemented at all levels.

### **Directors**

#### **10.11 Director for Finance, Risk and Performance**

- 10.11.1 To deliver, direct and manage the medium term financial planning of the organisation ensuring it is monitored and reported in a timely accurate fashion.
- 10.11.2 To deliver unqualified Statement of Accounts in accordance with legislative requirements.
- 10.11.3 To review listing decisions and compensation decisions for assets of community value.
- 10.11.4 To represent the council on the Management Board for the Hertfordshire Shared Audit Service (SIAS) and the Shared Anti-Fraud Service (SAFS).
- 10.11.5 Appoint Debt Recovery Agents for the whole or part of the district as the need arises.
- 10.11.6 Authorise and sign bank transfers and other payment types, including cheques and amendments to cheques.
- 10.11.7 Wherever necessary, to amend and agree affected charges for services to take account of changes in VAT or other forms of taxation, provided (in respect of Enforcement Agents), that any action taken shall be reported to the next convenient meeting of the Executive.
- 10.11.8 To be responsible for the rate of interest for any of the council's borrowing activities and issue notices to the council's mortgages of any changes in the council's rate of interest.
- 10.11.9 To administer and manage the council's Collection Fund.

- 10.11.10 To set precept dates in agreement with precepting partners.
- 10.11.11 To administer the council's insurances fund.
- 10.11.12 To make determinations within approved budget as are required under Part IV of the Local Government and Housing Act 1989 in respect of the funding of expenditure capital (but not in respect of borrowing limits) and report the action taken to the Executive for information.
- 10.11.13 To take day-to-day decisions in respect of the investment of council funds in accordance with the Annual Treasury Management strategy last approved by the Council.
- 10.11.14 To be responsible for the custody of any document required to be published and kept available for public inspection under the Audit Commission Act 1998.
- 10.11.15 To pursue appeals against rating assessments on council-owned and council-occupied property which, in his or her judgement, are incorrect or excessive, and agree either new or revised rating assessments on council-owned and/or occupied property on behalf of the council.
- 10.11.16 In consultation with the appropriate Executive Member and Director of Legal, Policy and Governance to prosecute or authorise the prosecution of persons committing malicious damage to council property.
- 10.11.17 To convey the freehold of electricity sub-station sites and to grant the necessary easements to electricity suppliers/distributors in respect of developments.
- 10.11.18 The appointment of Debt Recovery Agents (Enforcement Agents) and the issue of warrants to those appointed and taking such steps as may be necessary, including the levying of distress upon the goods and chattels of the tenant concerned, for the

recovery of arrears of rent owing to the council in respect of the occupation of any Council dwelling.

- 10.11.19 To authorise Officers to discharge land drainage functions under the Public Health Act 1936 and the Land Drainage Act 1991.
- 10.11.20 To approve and submit the annual National Non-Domestic Rates (NNDR1) return to the Government.
- 10.11.21 Authorise Officers in consultation with the Head of Legal and Democratic Services to institute and appear in any legal proceedings relating to council tax and national non- domestic rates.
- 10.11.22 To receive and process housing benefit and council tax support applications including initial reviews of decisions relating thereto and to approve the backdating of housing benefit payments and council tax benefit payments to attend, as necessary, valuation and council tax tribunal hearings.
- 10.11.23 To exercise discretion under the 1988 Housing Benefits Scheme (and any amendments thereto) to disregard, in determining a person's income, the whole of any war disablement pension or war widow's pension payable to that person.
- 10.11.24 To carry out all the charging and collection functions arising out of Parts I to III of the Local Government Finance Act 1988 (and any amendments thereto) except for:
  - (a) the determination of discretionary non-domestic rate relief under Section 47, which should be undertaken in accordance with the most recent discretionary rates relief policy approved by Executive;

- (b) other than for debts referred to in 14.5 below (bankruptcy, liquidation, and any other legally irrecoverable debt) the writing-off debts (including council tax, housing benefit and national non-domestic rates) in excess of £5,000; and
  - (c) the reduction or remission of liability under section 49.
- 10.11.25 To write-off all council tax, housing benefits, and national non-domestic rates outstanding debts which are the subject of formal bankruptcy, liquidation claims, debt relief orders and any other legally irrecoverable debt at any level.
- 10.11.26 To determine charges for the service of a Summons and Liability Order for non-payment of council tax and national non-domestic rates and the issue of a Distress Warrant subject to the approval of the Court.
- 10.11.27 To enter into agreements for deferred payment of national non-domestic rates, subject to registration of a charge on the Land Register, and in accordance with council policy.
- 10.11.28 To consider, in respect of any reapplication for reduction in Non-Domestic Rate bills (within six months of refusal), whether there is a significant change in circumstances in which case the application shall be submitted to the relevant Executive Member for consideration.
- 10.11.29 To determine and pay Discretionary Housing payment in accordance with Housing Benefit regulations and section 13 (A)(1)(c) Local Government Finance Act 1992, relating to Exceptional Hardship in respect of council tax.
- 10.11.30 To apply powers relevant to Housing Benefit, Council Tax reduction, Council Tax and Business Rates included in the above stated regulations, and any

relevant regulations (and any amendments thereto) other than where Executive or Council approval is required.

- 10.11.31 To authorise suitably qualified and experienced Officers to exercise powers and duties afforded to District Councils in the relevant legislation.

## **10.12 Director for Place**

- 10.12.1 To carry out all the functions of the Council as local planning authority, **except where this Constitution limits those powers**, including, but not limited to, the processing of all planning applications, appeals and pre-application enquiries; and the investigation and decision to take or not take enforcement action<sup>1</sup>.

- 10.12.2 To determine all applications submitted under the Acts or secondary legislation listed in footnote 2<sup>2</sup> **except where** the application:

- (a) is an outline or full application for a major development as defined in the Town and Country Planning (Development Management Procedure) Order (England) 2015 as amended, except:
- (i) applications which are for major development by virtue of the extent of the site area only;
  - (ii) where the application is a reserved matters application pursuant to a previous major application;

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<sup>1</sup> For the avoidance of doubt all of the functions of the Council as Local Planning Authority means any functions or activities that are beneficial to securing the proper planning of the authority area. This includes providing a development management service, the provision of a planning enforcement service and provision of a planning policy service to advise on the determination of planning applications, prepare policy and guidance (as set out in other sections of this Constitution) and provide specialist advice on a number of subjects including sustainability, urban design, landscaping and heritage.

<sup>2</sup> All applications submitted under relevant town planning legislation, inter alia the Town and Country Planning Act 1990 (as amended), the Planning (Listed Building and Conservation Areas) Act 1990 (as amended), the Planning (Hazardous Substances) Act 1990 (as amended), Part 8 of the Anti-social Behaviour Act 2003, the Planning Act 2008 (as amended), the Environment Act 2021 the Levelling Up and Regeneration Act 2023 and secondary legislation related to these Acts)

- (iii) where the application is a major application which the Director of Place recommends to be refused and has notified the Chair of the Development Management Committee of the intended decision.
- (b) is a non-material or minor material amendment application (variation) pursuant to a previous major application except where the Director of Place has notified the Chair of the Development Management Committee that the matter can be dealt with as a delegated decision;
- (c) is an application for planning permission or Listed Building Consent by a Member of the Council;
- (d) is an application other than an application to discharge a condition or make a non-material amendment and is by an officer of the council employed in the planning service area;
- (e) is an application for planning permission or Listed Building Consent by an officer of the council, other than one employed in the planning service area and proposes development other than householder development;
- (f) is an application other than an application to discharge a condition or make a non-material minor amendment or one for prior approval where a Member considers that Delegated Powers should not be exercised by the Director of Place and the Chair of Development Management Committee agrees that a delegated decision is not appropriate and the Member follows the procedure at a. -c. below. The procedure is:
  - a. The Member must submit a completed application referral form within 28 days of the application being notified or within 21 days of a revised notification being circulated to Ward Members or the Town and Parish Council.

- b. The application referral form must state the relevant valid planning reasons why the decision should not be delegated and whether the referral relates to a decision to approve or refuse the application.
- c. Where the Chair agrees that a delegated decision is not appropriate, the Member is expected to speak at Development Management Committee in support of their referral having followed the procedure set out in 6.5.2.
- d. Following receipt of a referral form as set out in a. and b. and prior to a recommendation being made, the Director of Place shall brief the Chair of Development Management Committee and seek their confirmation as to whether a delegated decision is appropriate.

For the avoidance of doubt, a Member may withdraw their referral at any time in advance of the application being placed on an agenda for consideration by the Development Management Committee, which shall allow the application to be determined under delegated powers (unless another section of this Constitution requires a decision by Development Management Committee).

- (g) is for development by or on behalf of the council, or which relates to a site in which it has a landowning interest, to which an objection has been made which is material to the development proposed.

- 10.12.3 To take all actions as necessary with regard to the receipt, validation, consultation and administration of all application types.
- 10.12.4 To take all actions as necessary with regard to the administration and submission of the council's case, including any review, alteration, amendment or

withdrawal of that case, following the appeal of a planning decision.

- 10.12.5 To take all actions to negotiate, vary and finalise the detail of legal agreements under section 106 of the Town and Country Planning Act 1990 as amended, following authorisation of the heads of terms of such agreements by the Development Management Committee on applications requiring their decision, or following authorisation as a delegated decision, or following the submission of a planning appeal.
- 10.12.6 To authorise the spending of collected s106 monies following notification to the Executive Member for Planning and Growth.
- 10.12.7 To take planning enforcement action including registering, investigating and negotiating on alleged breaches of planning control and taking decisions as to whether or not it is expedient to take enforcement action where a breach of planning control has occurred and to take enforcement action both informally and formally, including the serving or withdrawal of notices.
- 10.12.8 In consultation with the Shared Corporate Legal Service Manager, to initiate prosecutions and the taking of direct action or other enforcement action where Notices have not been complied with, where considered necessary to secure the good planning of the area.
- 10.12.9 In consultation with the Shared Corporate Legal Service Manager, to apply for injunctions in appropriate cases where there are any breaches of planning and/or building control, Tree Preservation Orders, or Listed Building and Conservation legislation where it is felt that contravention of planning and/or building control has taken place, and to give any undertakings in damages in such cases.
- 10.12.10 To determine whether or not it is expedient to take enforcement action where a breach of planning control has occurred, save where a Member requests the

matter be referred to the DM Committee and, in those cases with the agreement of the Chair of the DM Committee.

- 10.12.11 To make Directions under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), where it is considered to be an urgent matter and directions relating to unlisted buildings in conservation areas.
- 10.12.12 To make Tree Preservation Orders, and to determine applications for consent for the cutting down, topping or lopping of trees applications under the Town and Country Planning Act 1990 (as amended) and those submitted under the Hedgerow Regulations 1997 and exercise the powers and duties relating to high hedges under the Anti-Social Behaviour Act 2003.
- 10.12.13 To exercise the council's powers under Section 70(a) of the Town and Country Planning Act 1990, by declining to determine an application for planning permission for the development of any land where, within a period of two years, ending with the date on which the application is received, the Secretary of State has refused a similar application referred to him or her under Section 77, or has dismissed an appeal against the refusal of a similar application, and where, in the opinion of the Director of Place, there has been no significant change since the refusal or dismissal in the Development Plan or in any other material considerations.
- 10.12.14 The consideration, approval and payment of grants in respect of works to Listed Buildings, Heritage Assets at Risk, Undesignated Heritage Assets and with regard to Conservation Areas.
- 10.12.15 To exercise the council's planning powers for control of demolition.
- 10.12.16 To approve or reject plans submitted as non-material amendments to planning applications other than major planning applications.

- 10.12.17 To determine applications for certificates of appropriate alternative development.
- 10.12.18 To determine applications for certificates of lawful use and development in relation to proposed used and existing use.
- 10.12.19 To make observations and respond to consultations on development proposals and consultations on other matters by or on which comments are sought by Government Departments, the Planning Inspectorate, statutory undertakers, and Hertfordshire and Essex County Councils and any other Local Planning Authorities, which, where relevant, are substantially in accordance with the council's policies and are not likely to be controversial.
- 10.12.20 To carry out all functions relating to National Infrastructure Planning including co-ordination of the Council's response to any consultation, examination or other any other matter concerned with major infrastructure projects.
- 10.12.21 To advertise in the local press applications required to be advertised by statute or orders or regulations made thereunder, planning applications and applications for listed building consent.
- 10.12.22 To advertise in the local press and/or by a notice on site applications for planning permission as required by any Development Order made by the Secretary of State.
- 10.12.23 After consultation with the Director of Legal, Policy and Governance, to institute legal proceedings in respect of the contravention of Tree Preservation Orders and unauthorised works to trees in Conservation Area.
- 10.12.24 To enter into Planning Performance and Extension of Time Agreements.

- 10.12.25 To provide advice regarding the potential use or development of land or buildings to prospective applications through either the pre-application system, a Planning Performance Agreement or informally.
- 10.12.26 To determine the submission of nominations for the registration of Assets of Community Value.
- 10.12.27 To authorise an officer to enter land at any time for enforcement purposes in cases where admission has been refused or a refusal is expected or in cases of urgency.
- 10.12.28 To determine submissions as to whether prior approval is required in relation to any of the forms of permitted development for which a prior approval process is required as set out in government regulations (as may be subsequently amended) and in relation to all of the matters which, as specified in the appropriate regulations, those approvals are to be made.
- 10.12.29 To give screening opinions and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 2017 as amended.
- 10.12.30 To determine fees for planning applications and planning performance agreements.
- 10.12.31 To determine the building regulation fees charged by the council and to take all actions as necessary acting at the council's representative on the Commissioning Panel with regard to the commissioning of the Building Control service.
- 10.12.32 To determine applications submitted for approval under the Building Regulations and made under the Building Act 1984 (as amended) and the Local Government (Miscellaneous Provisions) Act 1976.
- 10.12.33 To be the Appointing Officer for the purposes of the Party Wall Act 1996.

- 10.12.34 To determine any footpath and bridleways matters including their protection, creation, diversion, modification and extinguishment.
- 10.12.35 To finalise the wording and requirements of planning conditions and reasons for refusal following the approval or refusal to grant planning permission by Development Management Committee in line with the resolutions of the Committee.
- 10.12.36 To make minor amendments and/or corrections of a clerical, grammatical or editorial nature only to the wording of conditions, obligations, reasons and informatives.
- 10.12.37 To refuse an application where a planning obligation (including a deed modifying or discharging an existing obligation) acceptable to the Director of Place and meeting the requirements of a decision of Development Management Committee (where relevant) has not been entered into.
- 10.12.38 To prepare, consult on, adopt and publish a list of information requirements to be submitted with planning applications, and to use the list to assess the validity of submitted applications.
- 10.12.39 To discharge obligations under s.106 TCPA 1990 (or s.52 of the TCPA 1971) where Director of Place deems that the obligation(s) has been complied with or is no longer relevant due to subsequent planning decisions or the passage of time.
- 10.12.40 Restriction of the use or closure of bowling greens during periods of drought.
- 10.12.41 Control of all grounds owned by the council.
- 10.12.42 The removal, storage and disposal of abandoned vehicles under the Refuse Disposal (Amenity) Act 1978.

- 10.12.43 To determine, in the first instance, whether street cleansing is necessary in the interests of public health or the amenity of the area pursuant to the Environmental Protection Act 1990 Code of Practice on litter and refuse.
- 10.12.44 To be identified as contact officer for the public under the Code of Practice of the Environmental Protection Act 1990.
- 10.12.45 To serve notices under the Environmental Protection Act 1990 and the Town and Country Planning Act 1990
- 10.12.46 Pursuant to Section 223 of the Local Government Act 1972 to authorise and institute proceeding in any Court in respect of Officers or other matters falling within relevant legislation subject to the Director of Law, Policy and Governance being satisfied as to the sufficiency of the evidence.
- 10.12.47 To authorise Officers to serve and sign in their own name all authorisation, variation, revocation and enforcement and other notices and orders as related to in the powers and duties afforded to the District Council in legislation.
- 10.12.48 To authorise suitably qualified and experienced Officers to exercise powers and duties afforded to District Councils in the relevant legislation.
- 10.12.49 To apply the powers and duties of enforcement afforded to a District Council in all legislation relating to Environmental Health matters.
- 10.12.50 To authenticate on the council's behalf any notice, certificate or other document required to apply any power or duty afforded to a District Council in legislation relating to Environmental Health unless reserved for determination by another body of the Council.
- 10.12.51 To exercise the powers of the council as registration authority including the issue, renewal, transfer or variation of all licences, consents and registrations set

out in legislation pertaining to Environmental Health matters unless in the case of contested matters reserved for determination by another body of the Council.

- 10.12.52 To authorise suitably qualified and experienced officers to act as inspectors and serve and sign in their own name all notices and enforcement instruments as related to the powers and duties afforded to District Councils in Environmental Health legislation.
- 10.12.53 To appoint and instruct veterinary surgeons to act on behalf of the council.
- 10.12.54 To nominate Officers for the council and take appropriate actions as required under the National Assistance Act 1948.
- 10.12.55 To endorse any agreed transfers of enforcement responsibility for any particular premises, or parts of premises, or any particular activities carried on in them, from the Health and Safety Executive to the council, or vice versa.
- 10.12.56 To make representation on or objections to any applications for activity in the District on the grounds that permission would be prejudicial to the public interest on environmental, health, nuisance or similar grounds.
- 10.12.57 To make changes to the Local Land Charge fees, including making changes to existing charges and the introduction of new charges and fee arrangements for new land charge services.
- 10.12.58 To administer the naming and numbering, including the renaming and renumbering, of streets and buildings in the District in consultation with parish and town councils.

## **10.13 Director of Communities**

Housing

- 10.13.1 To exercise the council's functions with regard to homeless persons.
- 10.13.2 To procure and/or manage temporary accommodation in pursuance of the council's homelessness duties and powers.
- 10.13.3 To write off arrears and debts arising from the discharge of homelessness powers and duties up to a maximum sum specified by the Director for Finance, Risk and Performance.
- 10.13.4 To maintain registers and records of those in housing need requiring social or affordable housing and nominate applicants to properties owned by Registered Providers (RPs).
- 10.13.5 To determine levels of housing need, stock condition and market conditions.
- 10.13.6 To make representations on or objections to housing development applications which are not in the public interest in relation to meeting local housing need.
- 10.13.7 To draw up development and/or regeneration schemes with RPs and other partners and pay grants to RPs and others on approved development schemes.
- 10.13.8 To make arrangements for and oversee the making of grants and loans and taking of other actions to enable the improvement or return to use of residential properties, including Disabled Facilities Grants.
- 10.13.9 To take action under the Crime and Disorder Act 1998, Police and Justice Act 2006 and Anti-Social Behaviour, Crime and Policing Act 2014 or associated guidance and/or replacement legislation to tackle anti-social behaviour, acting in consultation with the Shared Corporate Legal Service Manager as appropriate.
- 10.13.10 In all cases involving arrears of mortgage payments to the council and in consultation with the Director for Finance, Risk and Performance and Shared Corporate

Legal Service Manager or duly authorised Officers, to institute proceedings in the appropriate court to obtain an order for possession of the property and/or recovery of all monies remaining outstanding under the mortgage, legal charge or further charge as the case may be.

- 10.13.11 In relation to the recovery of contributions to the cost of sewerage services in respect of council houses which are sold:
- (a) to determine actual annual costs and payments on account; and
  - (b) to make special arrangements in the case of hardship or, where necessary, to comply with an existing agreement.

#### Licensing

- 10.13.12 To exercise the council's functions relating to hackney carriage/private hire licensing unless relating to a matter reserved for Licensing Committee or Licensing Sub-Committee. To undertake, in consultation with the Shared Corporate Legal Service Manager, prosecutions of hackney carriage drivers and private hire vehicle drivers for road traffic offences and other drivers for criminal offences relating to taxi ranks.
- 10.13.13 To exercise functions, unless reserved for the Licensing Committee or Licensing Sub-Committee, under the Licensing Act 2003 and Gambling Act 2005 including all administrative functions and determinations of unopposed applications for premises licences, personal licences, club premises certificates, temporary events notices, regulated entertainment and late night refreshments, permits and the setting of fees and charges where the legislation allows local determination.
- 10.13.14 To apply the powers and duties of enforcement afforded to a District Council in all legislation relating to Licensing and Environmental Health matters.

- 10.13.15 To authenticate on the council's behalf any notice, certificate or other document required to apply any power or duty afforded to a District Council in legislation relating to Licensing unless reserved for determination by another body of the Council.
- 10.13.16 To exercise the powers of the council as registration authority including the issue, renewal, transfer or variation of all licences, consents and registrations set out in legislation pertaining to Licensing matters unless in the case of contested matters reserved for determination by another body of the Council.
- 10.13.17 To authorise suitably qualified and experienced officers to act as inspectors and serve and sign in their own name all notices and enforcement instruments as related to the powers and duties afforded to District Councils in Licensing legislation.

#### Health, Wellbeing and Community Safety

- 10.13.18 To determine requirements and make any necessary arrangements for CCTV cameras in public areas funded by the council.
- 10.13.19 To determine the case for activities under the Regulation of Investigatory Powers Act 2000 or associated guidance and/or replacement legislation, including, acting in consultation with the Shared Corporate Legal Service Manager, applications to court to conduct covert surveillance.
- 10.13.20 To be responsible for emergency planning matters.
- 10.13.21 To exercise the council's functions to promote community safety and deter anti-social behavior and fly-tipping.
- 10.13.22 To act as the council's designated Lead Officer for Safeguarding, promote safeguarding and respond to safeguarding issues raised.

10.13.23 To devise and administer arrangements for distributing grants to improve the health and wellbeing of local people.

10.13.24 To make arrangements to promote environmental sustainability and reduce carbon emissions within the council and throughout the District.

Other

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

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

10.13.27 To manage the council's property portfolio.

10.13.28 Lettings of all properties including council offices; consents to assignments and sub-lettings; the granting of easements and licences; entering into leases, sub-leases, licences and easements on behalf of the council as lessee or lessor, sub-lessee, licensee or grantee as appropriate; consent to modification or release of restrictive covenants; rent reviews under existing and future leases, including the approval of terms, subject to reporting transactions half-yearly to the Executive.

10.13.29 To administer the Scheme for the collection of trade refuse.

10.13.30 Approval of types and siting of litter bins provided by parish and town councils.

10.13.31 To take action under the Anti-Social Behaviour, Crime and Policing Act 2014 or associated guidance and/or replacement legislation acting in consultation with the Director for Law, Policy and Governance.

10.13.32 To authorise suitably qualified and experienced Officers to exercise powers and duties afforded to District Councils in the relevant legislation.

**10.14 Head of ICT Strategic Partnership Manager (or equivalent post-holder as provided by Stevenage Borough Council under the shared services arrangements)**

10.14.1 To develop the council's information systems, information technology and e-government strategies.

10.14.2 To develop the council's information and communications technology strategies including the supply, withdrawal, data protection, security and integrity of the systems to Officers and Members.

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

10.14.4 To advise on and provide resilient ICT hardware and software solutions to maximise the efficiency of the council's operations.

**10.15 Director for Regeneration, Customer and Commercial Services**

10.15.1 To lead interpretation of and promote council compliance with the Public Sector Equality Duty as part of the Equality Act 2010.

10.15.2 To ensure compliance with Section 88 of the Localism Act regarding the registering of Assets of Community Value.

10.15.3 To ensure compliance with the Government's Code of Recommended Practice on Local Authority Publicity pursuant to the Local Government Act 1986.

10.15.4 To advise on best practice in public consultation in line with the Cabinet Office's Consultation Principles 2016 and any successor guidance or requirements.

- 10.15.5 To administer the council's Complaints Policy and liaise with the Ombudsman when complaints have been escalated.
- 10.15.6 To take action against persistent and unreasonable complainants.
- 10.15.7 To authorise appropriate action to be taken in respect of any contravention of any Order made under Section 35 of the Road Traffic Regulation Act 1984 (as amended) by persons at any car park(s) detailed within such an Order, subject to the outcome of any legal proceedings taken being reported to a subsequent meeting.
- 10.15.8 To charge users a fixed charge equivalent to the charge for the first variable charging period on those occasions when a short stay car park's variable charge equipment is temporarily out of commission.
- 10.15.9 To authorise the use of the council's off-street car parks by commercial and non-commercial organisations on Sundays only, and to determine the charge to be levied in such circumstances.
- 10.15.10 To consider objections received in relation to proposed Traffic Regulation Orders in consultation with the Executive Member for Environmental Sustainability.
- 10.15.11 The letting of council gardens and car parks
- 10.15.12 To deal with requests for the provision of signs to prohibit litter or other nuisances within the highway or car parks, in consultation with the Leader.
- 10.15.13 To authorise suitably qualified and experienced Officers to exercise powers and duties afforded to District Councils in the relevant legislation.

## Section 11 – Officer Functions

### 11.1 Management structure

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

| Post                   | Functions and Areas of Responsibility | Appointed by                        | Ratified by Full Council |
|------------------------|---------------------------------------|-------------------------------------|--------------------------|
| Chief Executive        | Head of Paid Service                  | Chief Officer Recruitment Committee | Yes                      |
| Deputy Chief Executive | Deputy for the Head of Paid Service   | Chief Officer Recruitment Committee | No                       |

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

| Designation                            | Post                                               |
|----------------------------------------|----------------------------------------------------|
| Head of Paid Service                   | Chief Executive                                    |
| Monitoring Officer                     | Director for Legal, Policy and Governance          |
| Chief Financial Officer (s151 officer) | Director for Finance, Risk and Performance         |
| Data Protection Officer                | Information Governance and Data Protection Manager |

- (d) Such posts will have the functions described in

paragraphs 11.2 – 11.5 below. The duties of the Monitoring Officer and the Chief Finance Officer can be carried out by a deputy, appointed by them, in case of absence or illness.

- (e) Structure: The Head of Paid Service will determine and publicise a description of the overall departmental structure of the council showing the management structure and deployment of Officers. This is set out at Appendix A of this Section.
- (f) The Chief Executive and the Deputy Chief Executive are to be appointed by the Chief Officer Recruitment Committee, with the Chief Executive appointment to be ratified by Council.
- (g) The appointments of the Monitoring Officer and Chief Financial Officer (s151 officer) are to be carried out by the Chief Executive, and ratified by Council.

## **11.2 Functions of the Head of Paid Service**

11.2.1 Discharge of functions by the council: The Head of Paid Service will report to Council on the manner in which the discharge of the council's functions is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.

11.2.2 Restrictions on functions: The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer if a qualified accountant.

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

11.3.1 Maintain the Constitution: The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, Officers and

the public and that its aims and principles are given full effect.

- 11.3.2 Ensure lawfulness and fairness of decision making: After consulting the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to Council, or to the Executive in relation to an executive function, if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 11.3.3 Support the Standards Committee: The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- 11.3.4 Receiving Complaints about Members: The Monitoring Officer will receive complaints of failures to comply with the Members' Code of Conduct and determine, in consultation with the Independent Person, whether a complaint requires formal investigation. The Monitoring Officer may seek to resolve a complaint informally prior to a decision on whether the complaint merits formal investigation.
- 11.3.5 Conduct investigations: The Monitoring Officer will arrange formal investigations as appropriate into matters referred to them and make reports or recommendations in respect of them to the Standards Committee. Subject to providing a report for information to the Standards Committee, the Monitoring Officer may take no further action where a formal investigation finds no evidence of a failure to comply with the Members' Code of Conduct, or seek an informal resolution (subject to consultation with the Independent Person) where the complainant is satisfied with the outcome.

- 11.3.6 Ensure access to information: The Monitoring Officer will ensure that there are procedures in place for all decisions, together with the reasons for those decisions and relevant officer reports and Background papers, to be made publicly available as soon as possible.
- 11.3.7 Advise whether decisions are within the Budget and the Policy Framework: The Monitoring Officer will advise whether decisions of Council or the Executive are in accordance with the Budget and Policy Framework.
- 11.3.8 Provide advice: The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Members and Officers.
- 11.3.9 Restrictions on post: The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.

#### **11.4 Functions of the Chief Financial Officer**

- 11.4.1 Ensure lawfulness and financial prudence of decision making: After consulting the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to Council, or to the Executive in relation to an executive function, and the council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the council is about to enter an item of account unlawfully. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 11.4.2 Administer financial affairs: The Chief Financial Officer will have responsibility for the administration of the financial affairs of the council.

- 11.4.3 Contribute to corporate management: The Chief Financial Officer will contribute to the corporate management of the council, in particular through the provision of professional financial advice.
- 11.4.4 Provide advice: The Chief Financial Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Members and will support and advise Members and Officers in their respective roles.
- 11.4.5 Give financial information: The Chief Financial Officer will ensure that financial information about the council is provided to the media, members of the public and the community.

## **11.5 Functions of the Data Protection Officer**

- 11.5.1 The council shall appoint a Data Protection Officer (DPO) as required under the UK General Data Protection Regulations (GDPR).
- 11.5.2 The DPO shall provide assistance to:
- (a) monitor internal compliance with UK GDPR and any associated regulations;
  - (b) inform and advise on the council's data protection obligations;
  - (c) provide advice regarding Data Protection Impact Assessments (DPIAs); and
  - (d) act as a contact point for data subjects and the supervisory authority.
- 11.5.3 The DPO shall be an expert in data protection who is adequately resourced and able to act independently on data protection matters. The post shall report to the Assistant Director for Democracy, Elections and

Information Governance.

**11.6 Duty to provide sufficient resources to the Monitoring Officer and Chief Financial Officer**

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

## 11.7 Designation of Statutory and Proper Officers

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

### 11.7.2 Statutory Officers

| Legislation                                             | Function                       | Post holder                                                                                                |
|---------------------------------------------------------|--------------------------------|------------------------------------------------------------------------------------------------------------|
| Section 4(1) Local Government and Housing Act 1989      | Head of Paid Service           | Chief Executive (Deputy Chief Executive nominated as deputy)                                               |
| Section 5(1) Local Government and Housing Act 1989      | Monitoring Officer             | Director for Communities                                                                                   |
| Section 151 Local Government Act 1972                   | Chief Financial Officer        | Director for Finance, Risk and Performance                                                                 |
| Section 35 Representation of the People Act 1983        | Returning Officer              | Chief Executive                                                                                            |
| Section 8 Representation of the People Act 1983         | Electoral Registration Officer | Chief Executive (Assistant Director – Democracy, Elections and Information Governance nominated as deputy) |
| Article 37 General Data Protection Regulations 2016/679 | Data Protection Officer        | Data Protection Officer                                                                                    |

Notes:

1. Section 113 Local Government and Finance Act 1988 provides that the Chief Finance Officer must also be the Council Tax Registration Officer.
2. Under Section 114 Local Government and Finance Act 1988 the Chief Finance Act 1988 the Chief Finance Officer nominate a suitable qualified member of his/her staff to carry out his/her duties under that Section when s/he is unable to act through absence or illness.
3. Under 5(7) Local Government and Housing Act 1989 the Monitoring Officer must nominate a deputy to act when s/he is unable through absence or illness to fulfil the role him/herself.
4. Under Section 35 Representation of the People Act 1983 the Returning Officer may appoint deputies to assist him/her in his/her duties.
5. Under s52(2) Representation of the People Act 1983 the Electoral Registration Officer may appoint deputies to assist him/her in his/her duties.
6. Under s24 Representation of the People Act 1983 the Returning Officer at a parliamentary election is the Chairman of the Council. However under Section 28, the Electoral Registration

Officer may discharge the functions of the Returning Officer as Acting Returning Officer. Under sub-section (5) the Acting Returning Officer has power to appoint deputies.

7. Under Article 37 of the General Data Protection Regulations 2016/679, the Council as a data controller shall designate a Data Protection Officer.

## Proper Officers

| Legislation               | Function                                                                                                                                           | Post Holder        |
|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| Local Government Act 1972 |                                                                                                                                                    |                    |
| Section 83 (1) to (4)     | Provides that a declaration in the prescribed form of acceptance of office of Chairman, Vice Chairman or Councillor be made to the proper officer. | Monitoring Officer |
| Section 84(1)             | States that written notice of resignation must be given by Councillors to the proper officer.                                                      | Monitoring Officer |
| Section 88(2)             | Gives the proper officer power to convene a meeting for the purpose of convening a casual vacancy in case of Chairman of the Council.              | Monitoring Officer |
| Section 89(1)(b)          | Makes provision for the proper officer to accept notice in writing of the casual vacancy occurring in the office of councillor.                    | Chief Executive    |
| Section 96                | Provides that the Proper Officer is to receive and record disclosures of pecuniary interests under Section 94.                                     | Monitoring Officer |

| Legislation                              | Function                                                                                                                                                                                                                                                                                  | Post Holder                                |
|------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| Section 100(a) to (h)<br>(excluding (f)) | For all purposes connected in the Local Government Act 1972 and the Local Government Act 2000 concerned with the provision of information about the decisions made or to be made by councillors including access to agenda, reports, background papers, minutes and records of decisions. | Monitoring Officer                         |
| Section 100 (f)                          | Provides that the proper officer is to deal with additional rights of access of documents for members of principal councils.                                                                                                                                                              | Chief Executive                            |
| S115                                     | Provides that the proper officer shall receive any monies held or received by officers during the course of employment, or shall issue directions as to whom the monies should be paid.                                                                                                   | Director for Finance, Risk and Performance |
| Section 137(a)                           | Gives the proper officer power to require a voluntary organisation or similar body to supply information to him/her, where a local authority uses its powers under Section 137 to give financial assistance to that voluntary organisation or similar body above a relevant minimum.      | Director for Finance, Risk and Performance |

| <b>Legislation</b>     | <b>Function</b>                                                                                                                                                                                             | <b>Post Holder</b>                         |
|------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| Section 146            | Provides that the proper officer is to make a statutory declaration, or give a certificate, in order to allow for securities etc. to be transferred on change of name of local authority or change of area. | Director for Finance, Risk and Performance |
| Section 210(6) and (7) | Appoints the proper officer to be vested with certain powers in respect of charities.                                                                                                                       | Chief Executive                            |
| Section 225            | Imposes a duty on the proper officer to receive and retain documents deposited with him/her pursuant to standing orders of either House of Parliament or any statute or instrument.                         | Shared Corporate Legal Service Manager     |
| Section 228            | Accounts of any Proper Officer to be open to inspection by any Member of the Authority.                                                                                                                     | Director for Finance, Risk and Performance |
| Section 229(5)         | Provides that the proper officer must certify any photographic copies of documents.                                                                                                                         | Shared Corporate Legal Service Manager     |
| Section 234            | Provides that any notice, order or other document which a local authority are authorized or required to give under any enactment may be signed on behalf                                                    | Shared Corporate Legal Service Manager     |

| <b>Legislation</b>                           | <b>Function</b>                                                                                                                 | <b>Post Holder</b>                     |
|----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
|                                              | of the authority by the proper officer.                                                                                         |                                        |
| Section 238                                  | Provides that printed copies of bylaws are endorsed with a certificate signed by the proper officer.                            | Shared Corporate Legal Service Manager |
| Schedule 12<br>Section 99                    | Conduct of meetings including requirements for notices to be given and sign summons to attend meetings of the Council and polls | Monitoring Officer                     |
| <b>Local Government Act 1974</b>             |                                                                                                                                 |                                        |
| Section 30                                   | Proper Officer must give public notice of Local Government Ombudsman's Reports.                                                 | Shared Corporate Legal Service Manager |
| <b>Local Land Charges Act 1975</b>           |                                                                                                                                 |                                        |
| Section 3(1)                                 | Chief Land Registrar for the Register of Local Land Charges                                                                     | Director for Place                     |
| <b>Representation of the People Act 1983</b> |                                                                                                                                 |                                        |
| Section 67                                   | Receipt of notice of an election agent for local elections.                                                                     | Chief Executive                        |
| Sections 82 and 89                           | Receipt of election expense declarations and returns and the holding of those documents for public inspection.                  | Chief Executive                        |

| <b>Legislation</b>                                                                                                                    | <b>Function</b>                                                                                                                                                    | <b>Post Holder</b>                         |
|---------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| Sections 128                                                                                                                          | Provides that a copy of any petition questioning a local government election shall be sent to the proper officer who shall publish it in the local authority area. | Chief Executive                            |
| <b>Local Elections (Principal Areas) (England and Wales) Rules 1986 and (Parishes and Communities) (England and Wales) Rules 1986</b> |                                                                                                                                                                    |                                            |
|                                                                                                                                       | Retention and public inspection of document after an election.                                                                                                     | Chief Executive                            |
| <b>Local Government Finance Act 1988</b>                                                                                              |                                                                                                                                                                    |                                            |
| Section 114                                                                                                                           | Duty to Report.                                                                                                                                                    | Director for Finance, Risk and Performance |
| Section 116                                                                                                                           | Provides that the proper officer must give the authority's auditor notice of meetings held under s115.                                                             | Director for Finance, Risk and Performance |
| <b>Local Government and Housing Act 1989</b>                                                                                          |                                                                                                                                                                    |                                            |
| Section 2                                                                                                                             | Proper Officer to hold a list of politically restricted posts.                                                                                                     | Monitoring Officer                         |
| <b>Local Government Act 2000</b>                                                                                                      |                                                                                                                                                                    |                                            |
| All                                                                                                                                   | All references to the Proper Officer in the Local Government Act 2000 and subordinate legislation.                                                                 | Monitoring Officer                         |
| <b>Assets of Community Value (England) Regulations 2012</b>                                                                           |                                                                                                                                                                    |                                            |
| Assets of Community Value                                                                                                             | Decisions under Assets of Community Value (England) Regulations 2012                                                                                               | Shared Corporate Legal Service Manager     |

| Legislation          | Function                                                                                                             | Post Holder                        |
|----------------------|----------------------------------------------------------------------------------------------------------------------|------------------------------------|
| <b>Miscellaneous</b> |                                                                                                                      |                                    |
| All Provisions       | Any other miscellaneous proper or statutory officer functions not otherwise specifically delegated by the Authority. | Chief Executive or his/her nominee |

## **11.8 Officer Employment Procedure Rules**

### **11.9 Recruitment and appointment**

#### **Declarations**

11.9.1 The council will require any candidate for appointment as an employee to state in writing whether they have any connections to an existing Member or employee of the council or of the spouse or partner of such persons.

11.9.2 A candidate who does not disclose such a relationship may be disqualified from consideration, and if appointed, may be liable to dismissal.

11.9.3 Every Member and Officer of the council will inform the Director concerned when they become aware of an application by a relative.

11.9.4 No candidate connected to a Member or an Officer will be appointed without the authority of the Head of Paid Service or an officer nominated by him/her.

11.9.5 The council will disqualify any applicant who directly or indirectly seeks the support of any Member for any appointment with the council. The content of this paragraph will be included in any recruitment information.

### **11.10 Recruitment of Head of Paid service and Chief Officers**

11.10.1 For the purposes of these rules, the term "Chief Officers" shall mean the Chief Executive and the Deputy Chief Executive.

11.10.2 Where the council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among existing officers, the council will:

- (a) draw up a statement specifying the duties of the officer concerned and any qualifications or qualities to be sought in the person to be appointed; and

- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it.

## **11.11 Appointment of Chief Executive**

- 11.11.1 Before an offer of appointment is made, Council will be required to approve the appointment of the Chief Executive following the recommendation of the Chief Officer Recruitment Committee.

## **11.12 Appointment of Chief Officers**

- 11.12.1 The Chief Officer Recruitment Committee will appoint Chief Officers.
- 11.12.2 An offer of employment as a Chief Officer shall only be made where no well-founded objection from any Member of the Executive has been received.

## **11.13 Other Appointments**

- 11.13.1 Officers below Chief Officer. Appointment of officers below Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Members.
- 11.13.2 Assistants to political groups. Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

## **11.14 Disciplinary Action – Statutory Officers**

- 11.14.1 Disciplinary action for the dismissal of the Head of Paid Service, Chief Financial Officer or Monitoring Officer shall take place in accordance with Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2015.
- 11.14.2 Suspension. The Head of Paid Service, Deputy Chief Executive, Monitoring Officer or Chief Financial Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months unless the Chief Officer Recruitment

Committee recommends the suspension should continue beyond that point.

- 11.14.3 A Statutory Officer may not be dismissed by the authority unless the procedure set out in paragraphs 11.13.4 – 11.13.14 is complied with.
- 11.14.4 The Chief Officer Recruitment Committee will investigate any allegations against a Statutory Officer.
- 11.14.5 The Chief Officer Recruitment Committee must appoint an Independent Investigator taken from a list held by the National Joint Secretaries.
- 11.14.6 The Independent Investigator will investigate and prepare a report to be considered by the Chief Officer Recruitment Committee.
- 11.14.7 The Chief Officer Recruitment Committee will meet to consider the report and give the Statutory Officer an opportunity to state their case and to question witnesses where relevant.
- 11.14.8 The Chief Officer Recruitment Committee will have the following options available to them:
- (a) Take no further action;
  - (b) Recommend informal resolution or other appropriate procedures;
  - (c) Refer back to the Independent Investigator for further investigation and report;
  - (d) Take disciplinary action against the Statutory Officer short of dismissal; or
  - (e) Propose dismissal of Statutory Officer to Full Council.
- 11.14.9 If the Chief Officer Recruitment Committee propose dismissal of the Statutory Officer to Full Council, this must be considered by the Independent Panel.

- 11.14.10 The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
- 11.14.11 Subject to paragraph 11.14.12, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 11.14.10 in accordance with the following priority order:
- (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
  - (b) any other relevant independent person who has been appointed by the authority;
  - (c) a relevant independent person who has been appointed by another authority or authorities.
- 11.14.12 The authority is not required to appoint more than two relevant independent persons in accordance with paragraph 11.14.11 but may do so.
- 11.14.13 The authority must appoint any Panel at least 20 working days before the meeting of the Council at which the recommendation for dismissal is to be considered. The Panel will review the decision and prepare a report for Council.
- 11.14.14 The Council must consider the proposal that the Statutory Officer be dismissed. Before the taking of a vote at the relevant Council meeting on whether or not to approve such a dismissal, the authority must take into account:
- (a) any advice, views or recommendations of the Panel;
  - (b) the conclusions of any investigation into the proposed dismissal; and
  - (c) any representations from the Statutory Officer.
- 11.14.15 Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable

to that independent person in respect of that person's role as independent person under the Localism Act 2011.

- 11.14.16 Subject to the provisions of The Local Authorities (Standing Orders) (England) Regulations 2015 all actions will be in accordance with both the JNC Conditions of Service for Chief Executives/Chief Officers and the council's employment policies.
- 11.14.17 Notice of the dismissal of the Chief Executive or any Chief Officers or assistant to a political group must be given to the Executive in accordance with paragraph 6 of Part II to Schedule I of the Local Authorities (Standing Orders) (England) Regulations 2015.
- 11.14.18 Chief Officers and the Head of Paid Service have a right of appeal against dismissal to a Joint Chief Officer Appeals Committee specifically appointed for that purpose.
- 11.14.19 Members will not be involved in disciplinary action against any Officer below Chief Officer level, except where such involvement is necessary for any investigation or inquiry into alleged misconduct. Such disciplinary action will be undertaken by the Head of Paid Service or an Officer nominated by them.

## **11.15 Chief Officers Protocol**

### Statutory Responsibilities

- 11.15.1 This protocol provides some general information on how the statutory requirements of the Chief Officers will be discharged in the Council. These Officers are statutory appointments pursuant to the following legislation:
- The Head of Paid Service – Section 4 of the Local Government and Housing Act 1989
  - The Monitoring Officer – Section 5 of the Local Government and Housing Act 1989
  - The Chief Financial Officer – Section 151 of the Local Government Act 1972
- 11.15.2 The Chief Officers should undertake to discharge these statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council.
- 11.15.3 A summary list of the statutory responsibilities appears in the table at Appendix A.

## **11.16 Working arrangements**

- 11.16.1 Having excellent working relations with Members and Officer will assist in the discharge of the statutory responsibilities of the Chief Officers. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision making by the Council) will assist in fulfilling those responsibilities. Members and Officers should, therefore, work with the Chief Officers to discharge the Council's statutory and discretionary responsibilities.

11.16.2 The following arrangements and understandings between the Chief Officers, Chief Officers and Members are designed to ensure the effective discharge of the Council's business and functions. The Chief Officers will:

- (a) Be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including:
  - (i) The manner in which the discharge of functions is co-ordinated, the number and grades of Officers required for the discharge of its functions, the organisation of the Council's Officers and the appointment and proper management of the Council's Officers (Head of Paid Service)
  - (ii) Issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to arise (Monitoring Officer)
  - (iii) Issues around financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss of deficit (Chief Financial Officer)
- (b) Have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council at which a decision may be made (including a failure to take a decision where one should have been taken) at or before the Council, Executive, Committee meetings and Sub-Committee

meetings (or equivalent arrangements);

- (c) Have the right to attend any meeting of the Council (including the right to be heard) before any decision is taken (including a failure to take a decision where one should have been taken) at or before the Council, Executive, Committee meetings and Sub-Committee meetings (or equivalent arrangements);
- (d) In carrying out any investigation(s) and exercising any duties have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of any functions;
- (e) Ensure that all Chief Officers are kept up to date with relevant information regarding their statutory duties.
- (f) Ensuring that all Chief Officers meet regularly to consider and recommend action in connection with Corporate Governance issues and other matter of concern.
- (g) Report to the Council when necessary on the corporate approach of the Council, the Constitution and the Financial Regulations and any necessary or desirable changes following consultation with the Chief Officers.
- (h) Make a report to the Council, as necessary on the staff, accommodation and resources required

discharging their statutory functions.

- (i) Have a direct relationship of respect and trust with the Leader, Deputy Leader and the Chairman of the Regulatory and Scrutiny Committees with a view to ensuring the effective and efficient discharge of Council business.
- (j) Develop an effective working liaison and relationship with the External Auditor and the Local Government Ombudsman including having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary.
- (k) In consultation, as necessary, with the Chairman of the Council, the Executive and the Audit and Governance Committee/External Auditor:
  - (i) Defer the making of a formal report under Section 4 of the Local Government and Housing Act 1989 where another investigative body is involved (Head of Paid Service)
  - (ii) Defer the making of a formal report under Section 5 of the Local Government and Housing Act 1989 where another investigative body is involved (Monitoring Officer)

(iii) Defer the making of a formal report under Section 114, 115 and 116 of the Local Government and Finance Act 1988 where another investigative body is involved (Chief Finance Officer)

(l) Have sufficient resources to address any matters concerning their statutory functions.

(m) In the case of the Monitoring Officer and Chief Financial Officer, appoint a suitably qualified deputy and keep the deputy briefed on any relevant issues that the deputy may be required to deal with in the absence of the Monitoring Officer/Chief Financial Officer.

11.16.3 To ensure the effective and efficient discharge of the arrangements as set out in paragraph 2.2 above, Members and Officers will report any breaches of statutory duty or Council policy and procedures and other legal, constitutional or financial concerns to the Chief Officers as soon as practicable.

11.16.4 The Chief Officers are available for Members and Officers to consult on any issues relating to their statutory remit.

11.16.5 The statutory officer or their deputy will record details of any advice given.

## APPENDIX A

### SUMMARY OF CHIEF OFFICERS' FUNCTIONS

| <b>THE HEAD OF PAID SERVICE</b> |                                                                                                             |                                                  |
|---------------------------------|-------------------------------------------------------------------------------------------------------------|--------------------------------------------------|
|                                 | <b>Description</b>                                                                                          | <b>Source</b>                                    |
| 1                               | Report on decisions incurring unlawful expenditure, unlawful loss or deficiency or unlawful item of account | Section 4 Local Government and Housing Act 1989  |
| 2                               | Report on resources                                                                                         | Section 4 Local Government and Housing Act 1989  |
| 3                               | All staff to be appointed on merit                                                                          | Section 7 Local Government and Housing Act 1989  |
| 4                               | Duty to adopt Standing Orders with respect to staff                                                         | Section 8 Local Government and Housing Act 1989  |
| 5                               | Confidentiality of staff records                                                                            | Section 11 Local Government and Housing Act 1989 |
| 6                               | Conflicts of interest in staff negotiations                                                                 | Section 12 Local Government and Housing Act 1989 |
| 7                               | Appointment of staff                                                                                        | Section 112 Local Government Act 1972            |
| <b>THE MONITORING OFFICER</b>   |                                                                                                             |                                                  |
| 1                               | Report on contraventions or likely contraventions of any enactment or rule of law                           | Section 5 Local Government and Housing Act 1989  |
| 2                               | Report on any maladministration or injustice where Ombudsman has carried out an investigation               | Section 5 Local Government and Housing Act 1989  |
| 3                               | Appointment of Deputy                                                                                       | Section 5 Local Government and Housing Act 1989  |
| 4                               | Report on resources                                                                                         | Section 5 Local Government and Housing Act 1989  |
| 5                               | Receive copies of whistleblowing allegations of                                                             | Code of Conduct                                  |

|                                |                                                                                                                                  |                                                                                                                         |
|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|
|                                | misconduct                                                                                                                       |                                                                                                                         |
| 6                              | Establish and maintain registers of Members' interests and gifts and hospitality                                                 | Section 29 Localism Act 2011                                                                                            |
| 7                              | Compensation for maladministration                                                                                               | Section 92 Local Government Act 2000                                                                                    |
| 8                              | Advice on vices issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Members. | Government guidance                                                                                                     |
| 9                              | Maintain a log of Member training                                                                                                | Local requirement                                                                                                       |
| <b>CHIEF FINANCIAL OFFICER</b> |                                                                                                                                  |                                                                                                                         |
| 1                              | Report on decisions incurring unlawful expenditure, unlawful loss or deficiency or unlawful item of account                      | Section 114, 114a, 115, 116 Local Government and Finance Act 1988                                                       |
| 2                              | Appointment of Deputy                                                                                                            | Section 114 Local Government and Finance Act 1988                                                                       |
| 3                              | Report on resources                                                                                                              | Section 114 Local Government and Finance Act 1988                                                                       |
| 4                              | Responsibility for the administration of financial affairs                                                                       | Section 151 Local Government Act 1972                                                                                   |
| 5                              | Borrowing, investment accounts and financial administration                                                                      | Local Government Act 2003 Sections 1-92                                                                                 |
| 6                              | Responsibility to determine the form of the Council's accounts and records, provide internal audit and statement of accounts     | The Accounts and Audit Regulations 2003<br>Local Authorities (Capital Finance and Accounting)(England) Regulations 2003 |

## **Section 12 - Access to Information Procedure Rules**

### **12.1 Scope**

These rules apply to all meetings of the Council, Scrutiny and other Committee, Regulatory Committees, Joint Committees, Sub-Committees, panels and public meetings of the Executive (together called 'meetings' within this part of the Constitution).

### **12.2 Additional rights to information**

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

### **12.3 Rights to attend meetings**

12.3.1 Members of the public may attend all meetings subject only to the exceptions in these rules.

12.3.2 Any person is permitted to film or record any meeting of Council, a Committee, Sub-Committee or the Executive, save where the public have been excluded for the consideration of exempt or confidential business. The rules, as prescribed by legislation, will allow for the reporting of meetings via social media of any kind. The council will provide reasonable facilities to facilitate reporting.

12.3.3 Any person exercising such rights must not disrupt the proceedings. Examples of what will be regarded as disruptive include, but are not limited to:

- (a) moving outside the area designated for the public;
- (b) making excessive noise;
- (c) intrusive lighting/flash; or
- (d) asking a Member to repeat a statement.

In addition, members of the public or the public gallery should

not be filmed as this could infringe an individual's right to privacy, if their prior permission has not been obtained. Any person considered to be disruptive in filming or recording the public will be requested to cease doing so by the Chair of the Committee and may be asked to leave the meeting.

## **12.4 Notices of meeting**

- 12.4.1 The council will give at least five Clear Days' notice of any meeting except where an urgent meeting is convened by posting details of the meeting at Wallfields, Pegs Lane, Hertford, Hertfordshire SG13 8EQ, the designated office and on the council's website.

## **12.5 Access to agenda and reports before the meeting**

- 12.5.1 The council will make available for public inspection the agenda and reports on its website and at the council offices at least five Clear Days before the meeting. If an item is added to the agenda after publication, the supplementary agenda will be open to inspection from the time the item was added to the agenda and the Monitoring Officer shall make each such report available to the public as soon as the report is completed and sent to Members.

## **12.6 Supply of copies**

- 12.6.1 Agendas, reports and Background papers are available to view on the council's website. The council will, on request, and may for such reasonable charge as is from time to time agreed, supply hard copies of:
- (a) any agenda and reports which are open to public inspection;
  - (b) any Background papers listed within the reports; and
  - (c) copies of any other documents supplied to Members in connection with an item to any person, on payment of a charge for postage and any other costs, if the Monitoring Officer thinks fit.

## **12.7 Access to documents after the meeting**

12.7.1 In addition to publishing information on the council's website as soon as reasonably practicable the council will make available upon request, hard copies, for a reasonable charge, of the following for six years after a meeting:

- (a) the minutes of the meeting, reports and records of decisions taken, together with reasons, for all meetings which were opened to the public. However where the meetings discuss exempt or Confidential Information, the minutes open to the public will only include a record of the proceedings and the decision.
- (b) records of Executive decisions taken by individual Executive Members or Officers including the reasons for the decision and any alternative options considered and rejected.
- (c) the agenda for the meeting.

## **12.8 Background papers**

### 12.8.1 List of Background papers

The author of the report will set out in every report a list of those documents (called Background papers) relating to the subject matter of the report which in the report author's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report;

but do not include published works or those which disclose exempt or Confidential Information (as defined in Paragraph 10 of this part of the Constitution).

12.8.2 The council will make available for public inspection for six years after the date of the meeting, one copy of each of the documents on the list of Background papers.

12.8.3 Arrangements for inspection should be made through Democratic Services at the designated office and on the council's website. In the case of reports to the Executive, the Background papers will be published on the council's website, subject to paragraph 12.10 in this part of the Constitution. The council may make a reasonable charge for access to Background papers to be inspected at the council's offices.

**12.9 Exclusion of access by the public to meetings**

12.9.1 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.

12.9.2 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.

12.9.3 Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed which falls into one of the seven definitions of information that is exempt from disclosure to the public and press which is at paragraph 12.9.4 below.

12.9.4 Meaning of exempt information

Exempt information means any information falling within the following seven categories (subject to any condition) as defined in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended):

| <u>Category</u>                            | <u>Condition</u> |
|--------------------------------------------|------------------|
| 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).                                                                                                                                     | <p>Information is not exempt information if it is required to be registered under:</p> <p>(a) The Companies Act 2006;</p> <p>(b) The Friendly Societies Act 1974;</p> <p>(c) The Friendly Societies Act 1992;</p> <p>(d) The Industrial and Provident Societies Acts 1965 to 1978;</p> <p>(e) The Building Societies Act 1986; or</p> <p>(f) The Charities Act 1993.</p> <p>“Financial and business affairs” includes contemplated, as well as past or current activities.</p> |
| 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 | <p>Employee means a person employed under a contract of service. “Labour relations matters” means any matters specified in section 218(1)(a) to (g) of the Trade Union and Labour Relations (Consolidation) Act 1992. These matters also apply to office holders as to employees.</p>                                                                                                                                                                                          |
| 5. Information in respect of which a claim to legal                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

|                                                                                                                                                                                                                                              |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| professional privilege could be maintained in legal proceedings.                                                                                                                                                                             |  |
| 6. Information which reveals that the authority proposes:<br><br>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or<br><br>(b) To make an order or direction under any enactment. |  |
| 7. Information relating to any action or any action proposed to be taken in connection with the prevention, investigation or prosecution of crime.                                                                                           |  |

Notes: (a) Information falling within any of categories 1-7 is not exempt by virtue of that category if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

(b) Information which:- (a) falls within any of categories 1 to 7 above; and (c) is not prevented from being exempt by virtue of the condition is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

(d) Where the meeting will determine any person's civil rights or obligations, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in that Article.

## **12.10 Exclusion of access by the public to reports**

12.10.1 If the Monitoring Officer thinks fit, the council may exclude access by the public to reports. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

## **12.11 Application of paragraphs to the Executive**

12.11.1 Paragraphs 12.12 – 12.23 of this part of the Constitution apply to the Executive, its Committees and Executive Members.

## **12.12 Procedures prior to private meetings**

12.12.1 At least 28 Clear Days before a private meeting of the Executive:

- (a) notice of intention to hold the meeting must be made available at the council's offices; and
- (b) that notice must be published on the council's website.

The council's Forward Plan will be used to publish notices under this rule.

12.12.2 The notice under paragraph 12.12.1 must include:

- (a) a statement of the reasons for the meeting being held in private.
- (b) details of any representations received by the Executive about why the meeting should be open to the public; and
- (c) a statement of its responses to any such representations.

12.12.3 Where the date by which a meeting must be held makes compliance with paragraph 12.12.1 impracticable, the Chief Executive must obtain agreement from:

- (a) the Chair of the Overview and Scrutiny Committee; or
- (b) if the Chair of the Overview and Scrutiny Committee is unable to act, the Chairman of the Council; or
- (c) where there is no Chair of either the Overview and Scrutiny Committee or of the Council, the Vice-Chairman of the Council, that the meeting is urgent and cannot reasonably be deferred.

- 12.12.4 As soon as reasonably practicable after the Chief Executive has obtained agreement under paragraph 12.12.3 to hold a private meeting, they 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

### **12.13 Attendance at private meetings of the Executive**

- 12.13.1 All Members of the Executive will be served notice of, and are entitled to attend, all private meetings of the Executive. The Chief Executive, Deputy Chief Executive, the Chief Financial Officer and the Monitoring Officer (or their deputies) can attend.
- 12.13.2 The provisions of paragraph 12.3.2 in this part of the Constitution will not apply.

### **12.14 Rights of non-executive Members**

- 12.14.1 All Members may request to attend a private meeting of the Executive and attendance will be at the Leader's discretion.
- 12.14.2 Any request for documentation will be provided as soon as reasonably practicable, but no later than 10 Clear Days after the request is made, subject to paragraph 12.14.3.
- 12.14.3 If the Leader of the Council determines that material will not be provided, they must provide the Member with a written statement, setting out its reasons for that decision.

### **12.15 Procedures prior to public meetings**

- 12.15.1 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.

12.15.2 An item of business may only be considered at a public meeting:

- (a) where a copy of the agenda or part of the agenda including the item has been available for inspection by the public for at least five Clear Days before the meeting; or
- (b) where the meeting is convened at shorter notice, a copy of the agenda including the item has been available for inspection by the public from the time that the meeting was convened;
- (c) where an item which would be available for inspection by the public is added to the agenda, copies of the supplementary 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.

## **12.16 Access to agenda and reports for public meetings**

12.16.1 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.

12.16.2 If the Monitoring Officer thinks fit, there may be excluded from the copy of any report the whole, or any part which relates only to matters during which, in the opinion of the Monitoring Officer the meeting is likely to be a private meeting.

12.16.3 A copy of the agenda item or report will not be available for inspection by the public until a copy is available to Members of the Council. Where the whole or of the part of a report for a public meeting is not available for inspection by the public:-

- (a) every copy of the whole report or of the part of the report, as the case may be, must be marked "not for publication" and

- (b) there must be stated on every copy of the whole or part of the report:
  - (i) that it contains Confidential Information; or
  - (ii) the description of exempt information by virtue of which the Executive is likely to exclude the public during the item to which the report relates.

12.16.4 Except during any part of a meeting during which the public are excluded, the council will make available for the use of members of the public present at the meeting a copy of the agenda and of the reports for the meeting on its website.

12.16.5 Unless they contain confidential or exempt information, following a request made by a member of the public or on behalf of the media 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 Monitoring Officer thinks fit in the case of any item, a copy of any other document supplied to Members of the Executive in connection with the item.

## **12.17 Publicity in connection with Key Decisions: the Forward Plan**

12.17.1 Where a decision maker intends to make a Key Decision, the council will publish a document, known as the Forward Plan which states:

- (a) that a Key Decision is to be made on behalf of the council;
- (b) the matter in respect of which the decision is to be made;

- (c) where the decision maker is an individual Executive Member or Officer, that individual's name and title/portfolio as appropriate, or if the decision maker is the Executive, a list of Executive 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 are 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.

12.17.2 At least 28 calendar 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.

12.17.3 Where, in relation to any matter:-

- (a) the public may be excluded from the meeting at which the matter is to be discussed; or
- (b) documents relating to the decision need not, be disclosed to the public,

the document will contain particulars of the matter but may not contain any confidential or exempt information.

## **12.18 General exception and special urgency**

- 12.18.1 If it is not possible to meet the requirements to give notice of a Key Decision laid out in paragraph 12.17.2 above, the making of the Key Decision can proceed so long as:
- (a) the Monitoring Officer has sought and received in writing the agreement of the Chair of the Overview and Scrutiny Committee or, in their absence, the Vice Chair of the Overview and Scrutiny Committee, to the general exception to the notice requirements; and
  - (b) the Monitoring Officer has made available at the council's offices for inspection by the public and has published on the council's website, a copy of the notice of the decision, including the reasons why compliance with the publicity requirement is impracticable; and
  - (c) five working days have elapsed following the day on which the Monitoring Officer made available the notice.

12.18.2 Where there is special urgency, the requirement in paragraph 12.18.1(c) above to give five working days' notice of the Key Decision may be withdrawn so long as requirements (a) and (b) in paragraph 12.18.1 above are met. In such cases, the notice of the Key Decision must include the reasons for the special urgency.

## **12.19 Recording of Executive decisions made at meetings**

12.19.1 As soon as reasonably practicable after any meeting of the Executive or its Committees at which an executive decision was made, the Monitoring Officer, must ensure that a written statement is produced for every executive decision made which includes the information specified in paragraph

12.19.2 The statement referred to in paragraph 12.19.1 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.

**12.20 Recording of executive decisions made by Executive Members and Key Decisions made by Officers acting under delegated authority**

12.20.1 As soon as reasonably practicable after an Executive Member has made an executive decision or an Officer has made a Key Decision, the Monitoring Officer will produce a written statement of that executive decision which should include the information specified in paragraph 12.20.2.

12.20.2 The statement referred to in paragraph 12.20.1 must include:

- (a) that a Key Decision has been made and details of the matter excluding any confidential or exempt information;
- (b) the date it was made;
- (c) the reasons for the decision;
- (d) details of any alternative options considered and rejected by the decision maker when making the decision;
- (e) a record of any conflict of interest declared by any Executive Member who was consulted in relation to the decision; and
- (f) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

**21.0 Recording of other decisions by Officers**

- 12.21.1 Officer decisions of a significant nature, though not executive decisions made under delegated authority nor meeting the criteria for a Key Decision, should be recorded in writing as soon as reasonably practicable after the decision has been made. Such decisions are likely to be significant within the meaning of this rule where they:
- (a) grant a permission or licence; or
  - (b) affect an individual's rights; or
  - (c) award a contract; or
  - (d) incur expenditure at a level which does not render it a Key Decision but would reasonably be expected to materially affect the council's finances; or
  - (e) may be reasonably expected to have an impact on the council's reputation.

- 12.21.2 The written record must contain the following information:
- (a) the date the decision was made;
  - (b) a record of the decision taken along with the reasons for the decision;
  - (c) details of alternative options, if any, considered and rejected; and
  - (d) where relevant, any conflicts of interest declared.

## **12.22 Inspection of documents following executive decisions**

- 12.22.1 Unless they contain confidential or exempt information, after a meeting of the Executive or its Committees at which an executive decision has been made, or after an Executive Member or an Officer has made an executive decision the Monitoring Officer must ensure that a copy of:
- (a) any record of the decision; and

- (b) any report considered at the meeting or, considered by the Executive Member or Officer and relevant to a decision record or, where only part of the report is relevant to such a decision, that part,

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.

## **12.23 Additional rights of access to documents for Members of local authorities**

12.23.1 Subject to paragraphs 12.23.5, 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.

12.23.2 Any document which is required by paragraph 12.23.3 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 12.23.1 in relation to that item, must be available for inspection when the item is added to the agenda.

12.23.3 Subject to paragraphs 12.23.5 to 12.23.6, any document which:

- (a) is in the possession or under the control of the Executive; and

- (b) contains material relating to:
  - (i) any business transacted at a private meeting;
  - (ii) any decision made by an Executive Member;
  - (iii) any decision made by an Officer in accordance with Executive arrangements,

must be available for inspection by any Member of the Council when the meeting concludes or where an Executive decision is made by an Executive Member or an Officer immediately after the decision has been made.

12.23.4 Any documents which are required by paragraph 12.23.3 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.

12.23.5 Paragraphs 12.23.1 and 12.23.3 do not require a document to be available for inspection if it appears to the Monitoring Officer that it discloses exempt information.

12.23.6 Notwithstanding paragraph 12.23.5, paragraphs 12.23.1 and 12.23.3 do require the document to be available for inspection if the information:

- (a) relates to the financial or business affairs of any particular person (including the authority holding that information) (except to the extent that the information relates to any terms proposed or to be proposed by or to the council in the course of negotiations for a contract); or
- (b) reveals that the authority proposes:
  - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

- (ii) to make an order or direction under any enactment.

12.23.7 These rights are in addition to any other rights that a Member may have.

**12.24 Document retention schedule**

12.24.1 The council's document retention schedule can be found on the council's website.

## **Section 13 - Budget and Policy Framework Procedure Rules**

### **13.1 The framework for executive decisions**

- 13.1.1 The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Section 3 of this Constitution. Once a Budget or a Policy Framework is in place, it will be the responsibility of the Executive to implement it.
- 13.1.2 The Executive shall propose the contents of the Policy Framework to Council for approval.

### **13.2 Process for developing policies within the Policy Framework**

- 13.2.1 The Executive will publicise, by including in the Forward Plan a timetable for making proposals to the Council for the adoption of any new plan, strategy or budget that forms part of the Budget and Policy Framework and its arrangements for consultation.
- 13.2.2 The Chair of the Overview and Scrutiny Committee and Audit and Governance Committee will be notified at the same time. 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 recommendations before the end of the consultation period.
- 13.2.3 The Executive will ensure that the consultation process is adequate and allows for meaningful dialogue with those involved.
- 13.2.4 At the end of any consultation period, the Executive will approve its own final proposals for submission to Council. These proposals will have regard to the responses to any consultation and will take into account any response or proposals from the Overview and Scrutiny Committee or Audit and Governance Committee. Its report to Council will reflect

the comments made by consultees and/or the committees and the Executive's response.

- 13.2.5 The Council will consider the proposals of the Executive and may:
- (a) adopt them;
  - (b) amend them;
  - (c) refer them back to the Executive for further consideration; or
  - (d) substitute its own proposals in their place.
- 13.2.6 In considering the matter, the Council shall have before it the Executive's proposals and any report from Overview and Scrutiny Committee or Audit and Governance Committee.
- 13.2.7 The Council's decision will be published on the council's website and a copy will be given to the Leader.
- 13.2.8 The notice of decision shall be dated and shall state either:
- (a) that the decision shall be effective immediately (if the Council accepts the Executive's proposals without amendment); or
  - (b) if the Executive's proposals are not accepted without amendment, that the Council's decision will become effective on the expiry of five working days after the publication of the notice of the decision unless the Leader of the Council objects to it in that period.
- 13.2.9 If the Leader objects to the decision of the Council, they will give written notice to the Chief Executive to that effect stating reasons for the objection prior to the date upon which the decision is to be effective. The written notification must either:
- (a) submit a revision of the proposals as amended by the Executive (the "revised proposals"), with the Executive's reasons for any amendments made to the

proposals, to the Council for the Council's consideration; or

- (b) 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.

13.2.10 Where such notification is received, the Chief Executive shall refer the matter to the next Ordinary Meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting. The Chief Executive may call an Extraordinary Meeting of Council if the matter is too urgent to await the next Ordinary Meeting.

13.2.11 At that Council meeting, the decision of the Council shall be reconsidered in the light of the revised proposals or the objections, which shall be available in writing for the Council.

13.2.12 The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public and shall be implemented immediately.

13.2.13 In approving the Policy Framework, the Council will also specify the degree of in-year changes to the Policy Framework which may be undertaken by the Executive. Any other changes to the Budget and Policy Framework are reserved to the Council.

### **13.3 Process for developing the Budget framework**

13.3.1 In addition to paragraphs 13.2.1 to 13.2.13, there will be a process for financial planning. The Executive shall prepare and adopt a timetable to accomplish these objectives that should incorporate consideration of:

- (a) an early assessment of assumptions that will be used in the drafting of the forthcoming budget, taking account of financial issues that may have a significant impact on the medium term financial situation of the council;
- (b) an overview of the financial position in the coming financial year following publication of the settlement

details of the anticipated funding from central government; and

- (c) detailed consideration of items of growth or potential savings.

13.3.2 If both Committees wish to respond to the Executive, a joint meeting of the Scrutiny Committees may be called.

13.3.3 The Council will hold its formal budget meeting usually in February or March when the Executive will present proposals to Council.

13.3.4 The budget proposals presented by the Executive will have taken consideration of the views of the public, staff, members of the Overview and Scrutiny Committee and Audit and Governance Committee and other consultees.

13.3.5 All potential amendments to the Budget must be assessed for their financial implications prior to the Council meeting to comply with Financial Procedures. To avoid any problems arising from this requirement, all proposed amendments to the budget will therefore be notified in advance to the Chief Executive and Chief Financial Officer.

13.3.6 At the budget meeting, the Council will decide on the budget for the forthcoming year and formally adopt this, satisfying any statutory requirements so that all income due to the council and its preceptors can be collected.

#### **13.4 Decisions outside the Budget and Policy Framework**

13.4.1 Subject to the provisions of paragraph 13.6 below, the Executive, Committees of the Executive, individual members of the Executive and any Officers, or joint arrangements discharging Executive functions may only take decisions which are in line with the budget and Policy Framework.

13.4.2 If any of these bodies or persons wishes to make a decision which is contrary to policy, or contrary to or not wholly in accordance with the budget approved by the Council, then that

decision may only be taken by the Council, subject to paragraphs 13.5 and 13.7 below.

- 13.4.3 If the Executive, committees of the Executive, individual members of the Executive and any officers, or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and the Chief Financial Officer as to whether the decision they want to make would be contrary to policy, or contrary to or not wholly in accordance with the budget.
- 13.4.4 If the advice of either of those Officers is that the decision would not be in line with the existing Budget and Policy Framework, then the decision must be referred to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraphs 13.5 (Urgent decisions outside the Budget and Policy Framework) shall apply.

### **13.5 Urgent decisions outside the Budget and Policy Framework**

- 13.5.1 The Executive, a committee of the Executive, an individual member of the Executive or Officers, or joint arrangements discharging Executive functions may take a decision which is contrary to policy or contrary to or not wholly in accordance with the budget if the decision is a matter of urgency. However, the decision may only be taken if:
- (a) it is not practical to convene a quorate meeting of the Council. The reasons for not being able to achieve a quorum must be recorded; and
  - (b) the Chair of the Overview and Scrutiny Committee agrees in writing that the decision is a matter of urgency. In the absence of the Chair of the Overview and Scrutiny Committee the consent of the Vice-Chair will be sufficient; and
  - (c) the council's Financial Procedure Rules are complied with in all other respects.

13.5.2 Following the decision, the decision maker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **13.6 Virement**

13.6.1 The council shall have sufficient budget heads to enable service delivery and effective budgetary control in line with the Council's Budget and Policy Framework.

13.6.2 Steps taken by the Executive, a committee of the Executive, an individual member of the Executive or Officers, or joint arrangements discharging Executive functions to implement council policy shall not exceed the budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads – as follows:

- (a) the Executive – non-recurring expenditure of up to £50,000 in any one case within budget allocations to functions which are the responsibility of the Executive;
- (b) Executive Members – non-recurring expenditure of up to £50,000 in any one case within budget allocations to functions which are the responsibility of the Executive Member; virement will also require the agreement of the Leader;
- (c) authorised Officers:
  - (i) provided that it does not constitute a Key Decision, Chief Officers and Directors be authorised to undertake virements of up to £25,000 on behalf of the Executive in any one case between the budgets under their control, subject to consultation with the relevant Executive Member(s) and the Leader and the Chief Financial Officer; such virements should be non-recurring and must not include asset rental or fixed percentage maintenance budgets, interest income or recharges which have implications elsewhere in the budget, and must be confirmed in writing to the Chief Financial Officer in a format

approved by him/her and reported to Executive via budget monitoring reports; and

- (ii) in the case of budgets allocated to the control of a committee, Chief Officers and Directors be authorised to undertake virements of up to £5,000 in any one case between the budgets under their control, subject to consultation with the committee chair and the Chief Financial Officer; such virements must not have implications elsewhere in the budget, and must be confirmed in writing to the Chief Financial Officer in a format approved by him/her and reported to the Committee via budget monitoring reports.

13.6.3 Any in year unplanned contributions from reserves exceeding £10,000 will need to be approved by Executive; those at the year end are seen by Council as part of approving the Council's financial statements.

## **13.7 In-year changes to Budget and Policy Framework**

13.7.1 The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Executive, a committee of the Executive an individual member of the Executive or Officers, or joint arrangements discharging Executive functions must (subject to paragraph 13.5) be in line with that framework. No changes to the Budget and Policy Framework may be made by those bodies or individuals except those changes:

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) which are necessary to implement a budget decision made by the Council;
- (c) necessary to ensure compliance with the law, ministerial direction or government guidance where there is no discretion how to act; or
- (d) in respect of a policy which would normally be agreed annually by the Council following consultation, but where

the existing policy document is silent on the matter under consideration.

### **13.8 Call-in of decisions outside the Budget and Policy Framework**

- 13.8.1 Where the Overview and Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to policy, or contrary to or not wholly in accordance with the budget, then it shall request that the Monitoring Officer and/or Chief Financial Officer prepare a report detailing their advice.
- 13.8.2 The Monitoring Officer's report and/or Chief Financial Officer's report shall be to the Executive with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the report. The Executive must prepare a report to:
- (a) the Council if the Monitoring Officer or the Chief Financial Officer conclude that the decision was a departure; or
  - (b) the Overview and Scrutiny Committee if the Monitoring Officer or the Chief Financial Officer conclude that the decision was not a departure.
- 13.8.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Financial Officer is that the decision is or would be contrary to policy or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to the Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The matter will be referred to the next ordinary meeting of the Council except in cases of urgency when an extraordinary meeting will be called. At the meeting, Council will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer. The Council may either:

- (a) endorse a decision or proposal of the Executive decision maker as falling within the existing budget and Policy Framework. In this case no further action is required; or
- (b) amend the budget or policy concerned and agree to the decision with immediate effect; or
- (c) accept the decision or proposal is contrary to policy or contrary to or not wholly in accordance with the budget, and not amend the existing framework to accommodate it, but require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/ Chief Financial Officer.

## **Local Government Association**

### **Model Councillor Code of Conduct 2020**

#### **Joint statement**

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

## **Introduction**

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

## **Definitions**

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

## **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

##### **As a councillor:**

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

## **2. Bullying, harassment and discrimination**

### **As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the council**

**As a councillor:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

**As a councillor:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

#### **4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

#### **4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

**As a councillor:**

### **5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

**As a councillor:**

### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

**As a councillor:**

### **7.1 I do not misuse council resources.**

### **7.2 I will, when using the resources of the local or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

### **As a Councillor:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

## **Protecting your reputation and the reputation of the local authority**

### **9. Interests**

#### **As a councillor:**

**9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B sets** out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

**As a councillor:**

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

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

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative, close associate; or
  - c. a body included in those you need to disclose under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter **affects** your financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

| <b>Subject</b>                                           | <b>Description</b>                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Employment, office, trade, profession or vocation</b> | Any employment, office, trade, profession or vocation carried on for profit or gain.<br>[Any unpaid directorship.]                                                                                                                                                                                                                                                                                                                |
| <b>Sponsorship</b>                                       | Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses.<br>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. |
| <b>Contracts</b>                                         | Any contract made between the councillor or his/her spouse or civil partner or the person with whom the                                                                                                                                                                                                                                                                                                                           |

|                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                            | <p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>                                                                                                                                                                                       |
| <b>Land and Property</b>   | <p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>                                                                                                                                                                                                        |
| <b>Licenses</b>            | <p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Corporate tenancies</b> | <p>Any tenancy where (to the councillor's knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>                                                                                                                                                                                                                                   |
| <b>Securities</b>          | <p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were</p> |

|  |                                                                                                                         |
|--|-------------------------------------------------------------------------------------------------------------------------|
|  | spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class. |
|--|-------------------------------------------------------------------------------------------------------------------------|

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**Table 2: Other Registrable Interests**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>You have a personal interest in any business of your authority where it relates to or is likely to affect:</p> <ul style="list-style-type: none"> <li>a) any body of which you are in general control or management and to which you are nominated or appointed by your authority</li> <li>b) any body <ul style="list-style-type: none"> <li>(i) exercising functions of a public nature</li> <li>(ii) any body directed to charitable purposes or</li> <li>(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)</li> </ul> </li> </ul> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

***The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.***

## **REPLACEMENT APPENDIX C FOR MODEL CODE OF CONDUCT**

Reference to 'dispensation' in the code means under section 33 of the Localism Act 2011

If you would like the authority to consider granting you a dispensation where you have a DPI or other Interest, you must make a prior written request to the Monitoring Officer. The grounds under which such an application will be considered are detailed below:

### **Dispensation grounds<sup>1</sup>**

A dispensation may be granted only if, after having had regard to all relevant circumstances, the Monitoring Officer considers that—

- a) without the dispensation the number of Councillors prohibited from participating in any particular business, would be so great a proportion of the body transacting the business, as to impede the transaction of the business;
- b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- c) granting the dispensation is in the interests of persons living in the authority's area;
- d) without the dispensation each member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive, or

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<sup>1</sup> The full wording for the statutory grounds for a DPI dispensation can be found under section 33 Localism Act 2011

e) considers that it is otherwise appropriate to grant a dispensation

A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.

# **Section 15 – Members’ Planning Code of Good Practice**

## **15.1 Introduction**

- 15.1.1 The aim of this code of good practice and 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.
- 15.1.2 One of the key purposes of the planning system is to regulate the development and use of land in the public interest. The role of a Member of the Planning Authority is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. Members are also a democratically accountable decision-taker who have been elected to provide and pursue policies. Members are entitled to be predisposed to make planning decisions in accordance with their political views and policies provided that all material considerations have been considered and fair consideration has been given to relevant points raised.
- 15.1.3 This code applies to Members at all times when involving themselves in the planning process. This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with Officers or the public and consultative meetings. It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.
- 15.1.4 If there are any doubts about the application of this Code to Members’ own circumstances, they should seek advice early, from the Monitoring Officer or one of their staff, and preferably well before any meeting takes place.

## **15.2 Relationship to the Members’ Code of Conduct**

- 15.2.1 Do apply the rules in the Members’ Code of Conduct first, which

must be always be complied with. This is both the rules on disclosable pecuniary interests (and other interests) and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

15.2.2 Do then apply the rules in this Members' Planning Code, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If this Members' Planning Code is not abided by, it could put:

- (a) the Council at risk of proceedings on the legality or maladministration of the related decision; and
- (b) Members' at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Localism Act 2011, a complaint being made to the police to consider criminal proceedings.

### **15.3 Development Proposals and Interests under the Members' Code**

15.3.1 Do disclose the existence and nature of the interest as required by the Members Code of Conduct.

15.3.2 Do take into account when approaching a decision that the Principle of integrity is defined in terms that "*Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships*". It is therefore advisable that Members:

15.3.3 Don't seek or accept any preferential treatment, or place themselves in a position that could lead the public to think they are receiving preferential treatment, because of their position as a councillor. This would include, where they have a disclosable or other personal conflict of interest in a proposal, using their position to discuss that proposal with Officers or Members when other members of the public would not have the same

opportunity to do so.

15.3.4 Do note that they are not prevented from seeking to explain and justify a proposal in which they may have a conflict of interest to an appropriate Officer, in person or in writing, but that the Members' Code of Conduct may place additional limitations on them in representing that proposal.

15.3.5 Do notify the Monitoring Officer in writing where it is clear to them that they have a disclosable pecuniary interest or other personal conflict of interest and note that:

- (a) the notification should be sent no later than submission of that application where possible;
- (b) the proposal will always be reported to the Committee as a main item and not dealt with by Officers under delegated powers;
- (c) Members must not get involved in the processing of the application; and
- (d) it is advisable that they employ an agent to act on their behalf in respect of the proposal when dealing with Officers and in public speaking at Committee.

#### **15.4 Fettering Discretion in the Planning Process** (natural justice, predisposition and predetermination)

15.4.1 Members should not fetter their discretion and therefore their ability to participate in planning decision making at the Council by approaching the decision with a closed mind. Fettering discretion in this way and taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of bias, pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

- 15.4.2 Members should be aware that in their role as an elected Member they are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011.
- 15.4.3 Members should keep in mind the following when they come to make a decision:
- (a) keep an open mind and hear all of the evidence presented, both the officers' presentation of the facts and their advice and the arguments from all sides;
  - (b) Members are not required to cast aside views on planning policy held when seeking election or when otherwise acting as a Member, in giving fair consideration to points raised;
  - (c) Members are only entitled to take account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
  - (d) Members are to come to a decision after giving what they feel is the right weight to those material considerations.
- 15.4.4 Members should be aware that they can be biased where the Council is the landowner, developer or applicant and they have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through significant personal involvement in preparing or advocating the proposal they 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.)
- 15.4.5 Members are able to take part in the debate on a proposal when acting as part of a consultee body (where they are also a

member of the parish council, for example, or both a district/borough and county councillor), provided:

- (a) the proposal does not substantially effect the well being or financial standing of the consultee body;
- (b) it is made clear to the consultee body that:
  - (i) any views are expressed on the limited information only;
  - (ii) personal judgement is reserved and the independence to make up your own mind on each separate proposal, based on the overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
  - (iii) you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee.

15.4.6 Members should explain that they do not intend to speak and vote as a member of the Committee because they will be perceived as having judged (or you reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.

15.4.7 Members should take the opportunity to exercise their separate speaking rights as a Ward Member where they have represented their views or those of local electors and fettered their discretion, but do not have a disclosable or other personal conflict of interest. Where a conflict of interest arises, Members should:

- (a) advise the proper officer or Chair that they wish to speak in this capacity before commencement of the item;
- (b) remove themselves from the seating area for members of the Committee for the duration of that item; and
- (c) ensure that their actions are recorded.

## **15.5 Contact with Applicants, Developers and Objectors**

- 15.5.1 Members should refer those who approach them for planning, procedural or technical advice to Officers.
- 15.5.2 Members should not agree to any formal meeting with applicants, developers or groups of objectors where they can avoid it. If a Member feels that a formal meeting would be useful in clarifying the issues, they should seek to arrange that meeting through a request to the Director of Place 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.
- 15.5.3 Members should otherwise:
- (a) follow the rules on lobbying;
  - (b) consider whether or not it would be prudent in the circumstances to make notes when contacted; and
  - (c) report to the Director of Place 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.
- 15.5.4 In respect of presentations by applicants/developers:
- (a) Members should not attend a planning presentation without requesting an Officer to be present.
  - (b) Members should ask relevant questions for the purposes of clarifying their understanding of the proposals.

- (c) Members should 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.
- (d) Members should be aware that a presentation is a form of lobbying and, whilst they may express any view on the merits or otherwise of the proposal presented, Members should never state how you or other Members would intend to vote at a committee.

## **15.6 Lobbying of Councillors**

- 15.6.1 Members should explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may subsequently prejudice their impartiality, and therefore their ability to participate in the Committee's decision making, to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.
- 15.6.2 Members should remember that their overriding duty is to the whole community not just to the people in their Ward and, taking account of the need to make decisions impartially, that they should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 15.6.3 Members should not accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible, including its addition to your register of interests where relevant.
- 15.6.4 Members should copy or pass on any lobbying correspondence they receive to the Director of Place at the earliest opportunity.
- 15.6.5 Members should promptly refer to the Director of Place any offers made to them of planning gain or constraint of

development, through a proposed s.106 Planning Obligation or otherwise.

15.6.6 Members should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate Officers to follow the matter up.

15.6.7 Members should note that, unless they have a disclosable or overriding other personal conflict of interest, they will not have fettered their discretion or breached this Planning Code through:

- (a) listening or receiving viewpoints from residents or other interested parties;
- (b) making comments to residents, interested parties, other Members or appropriate officers (making clear that they must keep an open mind);
- (c) seeking information through appropriate channels; or
- (d) being a vehicle for the expression of opinion of others in their role as a Ward Member.

## **15.7 Lobbying by Councillors**

15.7.1 Members should not become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If they do, they will be seen to have fettered their discretion on the grounds of bias.

15.7.2 Members can join general interest groups which reflect their 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 they should normally disclose that interest on the grounds of transparency

where the organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that they have reserved judgement and the independence to make up their own mind on each separate proposal.

- 15.7.3 Members should not excessively lobby fellow councillors regarding their 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.
- 15.7.4 Members should not 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.

## **15.8 Site Visits/Inspections**

- 15.8.1 Members should try to attend site visits organised by the Council where possible.
- 15.8.2 Members should not request a site visit unless they feel it is strictly necessary because:
  - (a) particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
  - (b) there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- 15.8.3 Members should ensure that they report back to the Committee any information gained from the site visit that they feel would benefit all Members of the Committee
- 15.8.4 Members should ensure that they treat the site visit only as an opportunity to seek information and to observe the site.

- 15.8.5 Members should ask the Officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- 15.8.6 Members should not hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on site factors and site issues. Where Members 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.
- 15.8.7 Members should not express opinions or views on the site visit.
- 15.8.8 Members should not enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
- (a) they feel it is essential to visit the site other than through attending the official site visit;
  - (b) they have first spoken to the Director of Place about their intention to do so and why (which will be recorded on the file); and
  - (c) they can ensure you will comply with these good practice rules on site visits.

## **15.9 Public Speaking at Meetings**

- 15.9.1 Members should not allow members of the public to communicate with them during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
- 15.9.2 Members should ensure that they comply with the Council's

procedures in respect of public speaking.

## **15.10 Officers**

- 15.10.1 Members should not put pressure on Officers to put forward a particular recommendation. (This does not prevent Members from asking questions or submitting views to the Director of Place, which may be incorporated into any committee report).
- 15.10.2 Members should recognise that Officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Director or those Officers who are authorised by their Director to deal with the proposal at a Member level.
- 15.10.3 Members should recognise and respect that Officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

## **15.11 Decision Making**

- 15.11.1 Members should ensure that, if they request a proposal to go before the Committee rather than be determined through officer delegation, that their planning reasons are recorded and repeated in the report to the Committee.
- 15.11.2 Members should come to meetings with an open mind and demonstrate that they are open-minded.

- 15.11.3 Members should comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- 15.11.4 Members should come to their decision only after due consideration of all of the information reasonably required upon which to base a decision. If Members feel there is insufficient time to digest new information or that there is simply insufficient information before them, request that further information. If necessary, defer or refuse.
- 15.11.5 Members should not vote or take part in the meeting's discussion on a proposal unless they have been present to hear the entire debate, including the Officers' introduction to the matter.
- 15.11.6 The reasons for Committee's decision to defer any proposal should be recorded [and that this is in accordance with the Council's protocol on deferrals].
- 15.11.7 Members should make sure that if they are proposing, seconding or supporting a decision contrary to Officer recommendations or the development plan that they 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 Members may have to justify the resulting decision by giving evidence in the event of any challenge.

## **15.12 Training**

- 15.12.1 Members should not participate in decision making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.
- 15.12.2 Members should endeavour to attend any other specialised training sessions provided, since these will be designed to extend Members' knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the

minimum referred to above and thus assist them in carrying out your role properly and effectively.

- 15.12.3 Members should participate in the annual review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.

## **Section 16 – Officers’ Code of Conduct**

### **Policy Statement No 14 (Issue No 3) February 2021**

#### **16.1 Introduction**

- 16.1.1 The primary commitment of East Herts Council is to provide excellent services to our service users, visitors and partner organisations. This commitment lies at the centre of the work undertaken by employees with every effort made to achieve these aims.
- 16.1.2 It is important that all employees (including agency employees, contractors and volunteers) conduct themselves to preserve public confidence in East Herts Council’s integrity as an organisation.
- 16.1.3 Employees should at all times act with due regard to the council’s values and behaviours and to show respect to fellow employees, Members, service users, visitors and partner organisations.
- 16.1.4 East Herts Council believes that the conduct of its employees is of a high standard. The purpose of this code is to provide clear guidance on the standards expected from all. All employees and volunteers should be aware that breaches of this Code will be investigated and, where considered appropriate, disciplinary action taken.
- 16.1.5 No code of conduct can cover all circumstances that may arise. Emphasis, therefore, is placed on the standards of performance and behaviour which are expected rather than making a complete list of rules or possible breaches.
- 16.1.6 Any action undertaken by a member of staff as part of a trade union dispute, where this action has been properly and legally called by a recognised trade union, shall be outside the scope of this policy.
- 16.1.7 Where ‘employees’ are referred to in this Code, the principles and conduct expectations also apply to agency staff, contractors and volunteers.

## **16.2 Standards and General Conduct**

16.2.1 The Code of Conduct has been developed to ensure that there are appropriate standards for the way in which the council delivers its services. Each employee is expected to abide by the terms and conditions of their employment and will be expected to conduct themselves in accordance with council policies and the council's values and behaviours.

16.2.2 Employees are expected to report any breach of the council's standards, procedures or expected behaviours to the appropriate manager. If an employee is concerned regarding coming forward in a safe and confidential way they should seek HR, management or union support, another potential avenue to raise concerns is through the Disclosure (Whistleblowing) Code.

## **16.3 Work Performance and following East Herts Council's procedures**

16.3.1 You are expected to carry out the full duties of your job to a high standard of performance, with appropriate support, supervision and training from East Herts Council. You are also expected to carry out reasonable management instructions and comply with East Herts Council rules.

## **16.4 Attendance and Time Keeping**

16.4.1 All absence must be authorised in advance in accordance with East Herts Council's leave booking arrangements except in the case of sickness, injury or exceptional personal complications that could not be foreseen. If you are unable to work for any of these reasons, you must contact your line manager as soon as possible and your absence must be notified and certified in accordance with East Herts Council's absence/sickness notification & certification procedures.

16.4.2 The council operates a flexi-time scheme which allows most employees (where the service and nature of the work allows) to have flexible start and finish times. However if you know

that you are going to arrive at work much later than you normally do, please ensure your manager is aware from a health and safety perspective.

- 16.4.3 If you have a role that has set start times or a meeting time has been arranged, punctuality in attendance for work is expected, barring the most exceptional circumstances.

## **16.5 Violence, Bullying and Harassment**

- 16.5.1 East Herts Council will not tolerate any acts of violence, threatening behaviour, verbal abuse, malicious cruelty, bullying and/or harassment or any behaviour which can be reasonably determined as intimidating and unwanted.

- 16.5.2 What does not constitute bullying behaviour is a manager discussing with an employee concerns regarding their performance or behaviour where legitimate and constructive criticism is made (or a reasonable request/instruction given).

- 16.5.3 Further information can be obtained from the council's Bullying and Harassment Policy.

## **16.6 Honesty, Integrity and Avoidance of Conflicts of Interest**

- 16.6.1 High standards of integrity and honesty are expected at all times. This includes being truthful and honest when asked appropriate questions by managers and other colleagues about any matters which have a bearing on your employment with and work at East Herts Council.

- 16.6.2 East Herts Council documents, forms and records should be completed truthfully and accurately. This includes all Human Resources forms, attendance forms, financial forms and records.

- 16.6.3 Under no circumstances may employees other than the line manager or an appropriate senior manager write a reference on East Herts Council headed paper for East Herts Council employees or ex-employees. Managers must seek guidance from HR before sending a reference to ensure data is in line with employee records and for a copy to be placed on the employee's file. If you choose to write a personal character

reference for a colleague/ex-colleague you must do so from your private address, making clear that you are not writing in an official capacity on behalf of East Herts Council, and you must be explicit about the nature of the working relationship that you had with the colleague.

- 16.6.4 Authority must not be abused in relation to a colleague, service user, Member or applicant for East Herts Council's services. Improper use of your official position for private gain or for the gain of relatives and associates will not be tolerated.
- 16.6.5 Conflicts of interest arises when an employee has a financial or personal interest, kinship or relationship, or engages in any activity (paid or unpaid) which could:
- (a) enable him/her to secure some personal advantage (other than salary) or advantage for a close relative or friend as a result of his/her being employed by East Herts Council; or
  - (b) influence his/her judgment in relation to the performance of his/her duties on behalf of East Herts Council.
- 16.6.6 For a conflict of interest to arise, the advantage does not have to be realised. You have a duty to be aware of and declare any interests or potential conflict of interests and to take steps to resolve any conflicts that may arise.
- 16.6.7 Officers must declare to their manager and to the Director of Legal, Policy and Governance any interests, financial or non-financial, which could bring about a conflict with the interests of the authority.
- 16.6.8 Once applicable at any time during employment by the council, employees must declare to their Director and the Director of Legal, Policy and Governance, membership of any organisation or group which:
- (a) is open to the public and requires formal membership and commitment of allegiance and has secrecy about rules and members' conduct; or
  - (b) has views which oppose those of the council in a way or

to such a degree that this does, or could be seen to, compromise the employee's ability to carry out his or her duties on behalf of the council in an unbiased and impartial way.

- 16.6.9 New starters will be asked to confirm they have read and understood this code of conduct and will be required to declare any potential conflicts of interest as part of their new starter process.
- 16.6.10 For avoidance of doubt, Freemasonry is an 'organisation' within the meaning of paragraph 16.6.8.
- 16.6.11 You should not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your job.

## **16.7 Personal Relationships**

- 16.7.1 In line with Section 16.6 above you have a duty to be aware of and declare any interests or potential conflict of interests and to take steps with management guidance to resolve any conflicts that may arise. This includes close personal relationships which can affect your ability to perform your role, essentially by declaring and being transparent it allows the council to manage the situation appropriately.
- 16.7.2 It is the employee's responsibility to inform their manager (who must then seek advice from HR), in confidence, if they are in a close personal relationship with another employee, a Member, service user, contractor or someone working from a partner organisation.
- 16.7.3 This requirement applies equally to relationships that existed prior to employment and to relationships that develop at the council.
- 16.7.4 The manager will discuss with the employee the potential impact of the relationship on the council.
- 16.7.5 Although the manager will treat the disclosure sensitively and in confidence, HR will be informed and it is possible that other parties will need to be made aware. This will be on a strictly

need-to-know basis and this will be discussed with those concerned first.

- 16.7.6 The manager will be responsible for making appropriate alternative arrangements in relation to recruitment, selection, appraisal, promotion or other situations or processes where there may be a conflict of interest or where unfair advantage may be gained, or perceived to be gained over other employees.
- 16.7.7 In some cases it may be necessary to consider moving an employee to another service, if the actual or perceived risk of conflict of interest cannot be managed by other means.
- 16.7.8 Failure to disclose the existence of such a relationship will result in disciplinary action being considered.
- 16.7.9 It is important to note that where there is a close personal relationship of a romantic or sexual nature between employees or with one of those mentioned in 16.7.2 above, it is likely that public displays of affection at work may cause discomfort for their colleagues and portray an unprofessional image. Employees are therefore expected to behave professionally at work with each other and intimate contact and/or displays of affection should only be conducted outside of the work environment. Failure to act professionally will lead to disciplinary action being considered.

## **16.8 Gifts and Hospitality**

- 16.8.1 You should not accept any fee or reward from organisations except for small gifts not exceeding £25 e.g. advertisement materials, calendars, chocolates, diaries etc. You must complete the declaration form in Appendix 2 and submit it to your Director, who can decide whether it should be returned or how it should be used (e.g. a box of chocolates may be appropriate to be shared amongst the team or used with a fundraising raffle). If a more substantial gift is offered it should always be tactfully refused and your Director informed that the offer was made.

- 16.8.2 Invitations to working meals, social functions to which other employees are invited, general celebrations or team sporting events are generally acceptable. However, offers of holidays, hotel accommodation, theatre or match tickets should be refused. You must seek advice from your Director.
- 16.8.3 You should avoid accepting gifts and hospitality that might reasonably be thought to influence your judgement.
- 16.8.4 The receipt of gifts of money or gift vouchers from any service user, applicant for East Herts Council's services (prospective candidate or service user), or contractor or supplier is absolutely prohibited.
- 16.8.5 The acceptance of non-monetary gifts or benefits from all those listed above must be actively discouraged at all times. Whilst it is recognised that in a restricted number of situations it may not be possible, without giving offence, to refuse a trivial gift (e.g. a bottle of wine or a box of chocolates from a contractor at Christmas-time, or flowers from a grateful resident). The gift and donor must be reported to your Director, who can decide whether it should be returned.
- 16.8.6 If an employee is invited to receive hospitality from or wishes to provide hospitality to a contractor, extravagance must be avoided, and permission must be sought from your Director.

## **16.9 Alcohol, Drugs and Smoking**

- 16.9.1 If an employee has an alcohol or drug related problem the council views this as a serious illness which should be treated. In these circumstances the council will be sympathetic but will insist that treatment is sought. However, if treatment is not sought for the condition the council may be forced to use the disciplinary procedure. The council has an Alcohol, Drug and Substance Misuse policy.
- 16.9.2 You should not be under the influence of alcohol or non-prescription drugs whilst at work, prejudicing performance of your duties and affecting the image of East Herts Council detrimentally. Employees on prescribed medication should inform their manager if they have been prescribed drugs which may affect their performance or other people's safety.

- 16.9.3 Employees whose job it is to work directly with members of the public must refrain from using alcohol before going on duty and whilst on duty until the working period has finished (it is not acceptable to smell of alcohol as this will potentially damage reputation both of the individual and the council).
- 16.9.4 Alcohol should not be consumed in the workplace.
- 16.9.5 Bringing onto, taking or possessing illegal drugs whilst on East Herts Council premises is prohibited and will lead to disciplinary action and be treated as gross misconduct within the terms of East Herts Council's disciplinary procedure and brought to the attention of the police.
- 16.9.6 Smoking (including the use of e-cigarettes and vaping) is not permitted within East Herts Council's buildings. Smoking is only allowed in designated areas as outlined in the council's Smoke-Free Workplace Policy and in line with the law. The time spent taking smoking breaks should be accounted for in your own time (for example included in the time provided for your lunch break on your flexi sheet, or made before the beginning or after the end of the working day).

## **16.10 Health and Safety**

- 16.10.1 All employees are responsible for ensuring reasonable care for the health and safety of him/herself and other persons who may be affected by his/her acts or omissions at work. Copies of the council's Health and Safety policies and guidance are available from the Council's Health and Safety Officer or on the intranet (as well as being circulated as part of the recruitment process).
- 16.10.2 You must not intentionally or recklessly interfere with or misuse anything provided by East Herts Council in pursuance of relevant health and safety legislation and good practice.
- 16.10.3 You should familiarise yourself with and comply with East Herts Council's Health & Safety Guide and procedures at all times including risk assessments that relate to areas of your work.

## **16.11 Diversity and Equality**

- 16.11.1 It is important that employees create an environment which is supportive of everyone and does not illegally or unfairly discriminate against any anyone because of age, gender reassignment, being married or in a civil partnership, being pregnant or on maternity leave, disability, race (including colour, nationality ethnic or national origin), religion or belief, or sexual orientation, or any other form of unfair discrimination.
- 16.11.2 Employees must be familiar with and actively uphold East Herts Council's Equality policies.

## **16.12 Maintaining Professional Relationships and Safeguarding**

- 16.12.1 Employees have a professional duty and a responsibility to safeguard the welfare of service users and visitors, maintain professional relationships especially in relation to children and vulnerable adults. Employees must follow, uphold and comply with East Herts Council's Safeguarding Policy.
- 16.12.2 Employees should take steps to protect children, young people and adults at risk so that they are safe when using our services.
- 16.12.3 The council is committed to ensuring that the needs and interests of children, young people and adults at risk are considered by Members, employees, volunteers and contractors in the provision of services and decision-making.
- 16.12.4 All employees must ensure they are conversant with the council's Safeguarding Policy and Procedure and follow it. Failure to do so may lead to disciplinary action.

## **16.13 Confidentiality and Processing Information**

- 16.13.1 Within the council, communication should be open and informative to all. However, certain information should be considered confidential within the council. Information should not be divulged unless required by law and disclosure is expressly authorised. Personal information on anyone is internally confidential unless part of agreed procedures. Any

breach of confidence is a serious disciplinary offence. If you are in doubt about such a matter you should consult your manager. In compliance with the General Data Protection Regulations (GDPR), the Council will process personal or “sensitive” data only for legitimate reasons.

- 16.13.2 All knowledge of East Herts Council's work, future plans, employees or Members is confidential and should not be divulged other than in the course of proper performance of duties.
- 16.13.3 Personal information gained about colleagues must not be maliciously spread or allowed to become the subject of gossip.
- 16.13.4 Employees should not be critical of one another to outside organisations or to individuals with whom we have a professional relationship.
- 16.13.5 Employees are expected to abide by East Herts Council’s confidentiality & data protection policies at all times.

**16.14 Use and Monitoring of East Herts Council Property, Equipment and Time**

- 16.14.1 East Herts Council property and equipment should be treated with care and only used for authorised purposes.
- 16.14.2 East Herts Council property may not be taken off the premises for personal use unless the procedure for loaning equipment has been followed prior to the loan of the equipment.
- 16.14.3 Work time should be devoted exclusively to carrying out East Herts Council responsibilities not for personal projects or activities.
- 16.14.4 Unauthorised pamphlets or literature should not be distributed in the workplace.
- 16.14.5 Unauthorised documents should not be placed on the walls of the East Herts Council offices or managed properties or on East Herts Council or Union noticeboards. Authorised documents mounted in these places should not be removed or defaced.

- 16.14.6 Whereas East Herts Council recognises that at certain times it is necessary for employees to make personal telephone calls – e.g. emergencies, making arrangements with relatives, friends or medical and professional contacts - these must be kept to a bare minimum in terms of both quantity and length of time spent on the phone.
- 16.14.7 If friends, relatives or medical and professional contacts telephone you in a personal capacity, you may accept such incoming calls provided that:
- (a) they are not given priority over or allowed to disrupt any work, meeting, or service user contact in which you are engaged;
  - (b) if the conversation which takes place lasts longer than a few minutes, it must be accounted for in your own time (for example included in the time provided for your lunch break).
- 16.14.8 Under no circumstances may employees use East Herts Council mobile telephones for their own personal use.
- 16.14.9 Personal mobile phones should be either switched off or put onto silent/vibrate mode during working hours to ensure that others are not disturbed: use of these at work should be restricted to authorised break times unless otherwise agreed by your manager.
- 16.14.10 The occasional use of computers, printers and photocopiers for personal use will be permitted under the following conditions:
- (a) such use is occasional, and not regular;
  - (b) use of computers in no way contravenes the rules on computer use set out in East Herts Council's ICT Acceptable Use Policy;
  - (c) the time spent in producing documents is accounted for in your own time (for example included in the time provided for your lunch break, or made before the

beginning or after the end of the working day).

- 16.14.11 You must not use East Herts Council's franking machine for private correspondence.
- 16.14.12 With the exception of printing and photocopying paper as above, you must not use East Herts Council stationery or other stock (e.g. staff kitchen supplies, cleaning materials) for private purposes. Unauthorised removal of East Herts Council stationery or other stocks/materials from an East Herts Council site will be treated as theft.
- 16.14.13 It should be noted that East Herts Council has the means, automated and otherwise, of monitoring individual usage of property and equipment, including:
- telephones;
  - mobile phones;
  - e-mail;
  - internet
  - Overt CCTV
  - Card reader entry systems.
- 16.14.14 In order to protect East Herts Council's resources, we reserve the right to use appropriate monitoring systems and information, and such information may form part of the evidence in any disciplinary or other management action that may be taken in connection with:
- (a) any breach of our rules relating to personal use of property, equipment and time,
  - (b) any other matter upon which individual usage of property, equipment and time has a bearing.
- 16.14.15 East Herts Council will have due regard to relevant legislation that may impact on monitoring, including the Human Rights Act (1998), the General Data Protection Regulations and the Regulation of Investigatory Powers Act (2016). To this end, we will not use monitoring systems that are excessive for purpose, for example interception/tapping of phone calls.

16.14.16 You must familiarise yourself with the contents of East Herts Council's ICT Acceptable Use Policy and must not use East Herts Council's e-mail/internet facilities other than within the very limited terms set out in the policy.

## **16.15 Use of Computers**

16.15.1 There should be no unauthorised access to or modification of East Herts Council's computer equipment, programmes or data.

16.15.2 No hardware or software (including computer games) should be installed onto East Herts Council's network or stand-alone computers that has not be authorised by the ICT Department or a member of the Leadership Team.

16.15.3 If you wish to carry out any private work on East Herts Council's computer equipment you must seek prior authorisation from your manager.

16.15.4 You must familiarise yourself with the contents of East Herts Council's ICT Acceptable Use Policy and must not use East Herts Council's e-mail/internet facilities other than within the very limited terms set out in the policy.

16.15.5 You must conduct yourself professionally on e-mail and the Internet including social media (please see Social Media Guidelines – Link be added). This conduct includes, but is not limited to, avoiding use of material with offensive sexual content, profane or vulgar language, racial or ethnic slurs or similarly insulting material.

16.15.6 You must not use the Internet/e-mail/social media to circulate materials with a political or religious content. This does not apply to materials circulated by East Herts Council's recognised trade union Unison.

16.15.7 Do not insert any disks/CDs or other storage devices brought in from outside East Herts Council into the East Herts Council computer equipment without prior agreement from a member of the ICT team. A virus check may need to be carried out first.

16.15.8 Any misuse of East Herts Council's computer resources may result in a criminal prosecution under the Computer Misuse and Cybercrimes Act (2018) as well as East Herts Council's own internal disciplinary action.

## **16.16 Mobile Phones whilst driving**

16.16.1 All employees must not use hand held mobile phones (East Herts Council issued or personal) for organisational or personal use whilst driving. Stopping at traffic lights or being stuck in traffic jams is still deemed driving under the law unless the traffic jam is "exceptional" and the engine is turned off.

## **16.17 East Herts Council's Profile and Reputation**

16.17.1 Please ensure at all times that your words and actions do not bring East Herts Council into disrepute, either internally or in any dealings with external agencies or the public.

16.17.2 All those who work for East Herts Council are expected to be committed to the aims and objectives of the organisation. Those who attend any external meeting or activity on behalf of East Herts Council are expected to promote the work and policies of the organisation in a positive way.

16.17.3 The Leadership Team have responsibility for communications with the media. No one who works for East Herts Council should give information to the media about the organisation and its work without the agreement of a member of the Leadership Team.

## **16.18 Outside Activities**

16.18.1 Secondary Employment: In line with the contract of employment, permission should be sought in writing from your Director using the declaration form in Appendix 3 if you wish to engage in other business or employment outside of East Herts Council. The Director will ascertain whether the activities in question could impair your ability to act at all times in the best interests of East Herts Council and will also refer to the Working Time Directive. Permission will not be unreasonably

refused. If it is refused, the reasons will be explained in writing. You will not have the right of appeal. A copy of the declaration form will be placed on your personal file.

- 16.18.2 In work related social events or in mixing socially with colleagues outside of work you are expected to maintain and be responsible for your own appropriate behaviour in line with the code of conduct. The onus in such situations is on you to avoid behaving in a manner which could lead to a misconduct complaint. Any such complaint will be dealt with under the disciplinary procedure.
- 16.18.3 With the above stipulation, your off duty hours are your personal concern but your personal activities should not take precedence over your duty or put you in a position where your duty and private interests conflict. Employees should not engage in any activity which, in East Herts Council view, conflicts with or acts detrimentally to East Herts Council business or in any way weakens public confidence in the conduct of East Herts Council's business.

## **16.19 Political neutrality**

- 16.19.1 Employees provide services for all Members and must ensure that their individual rights are respected.
- 16.19.2 Some employees may be required to advise political groups and must do so in ways which do not compromise their political neutrality.
- 16.19.3 Employees must follow lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.
- 16.19.4 Any political assistants, appointed in accordance with the Local Government and Housing Act 1989, are exempt from the standards set in 16.19.1 to 16.19.3 above.
- 16.19.5 The council has a list of politically restricted posts within the meaning of the Local Government and Housing Act 1989.
- 16.19.6 Employees holding politically restricted posts are disqualified from membership of any local authority other than a parish or

community council and from being an MP. The council will maintain a list of these posts and advise the postholders concerned.

## **16.20 Criminal proceedings, convictions and misconduct or impropriety allegations**

16.20.1 For the protection of all parties you are required to notify a member of the Leadership Team in writing in the event that you are charged with or convicted of a criminal offence. The information will be treated with sensitivity and confidentiality. No action will be taken unless there is a direct impact on your position.

16.20.2 In the case of criminal proceedings or conviction involving an East Herts Council employee, East Herts Council reserves the right to consider the impact of such proceedings upon itself and the compatibility of the proceedings or offence with the employee's role, and to take appropriate action. In certain circumstances disciplinary action may follow.

16.20.3 **Allegations/Misconduct outside of the workplace**  
In the event that any allegations of impropriety or misconduct are made against you in respect of your conduct outside the workplace, you must notify your manager immediately (who must then consult with HR). This includes any allegations made in the course of any secondary employment, a voluntary role or holding a public appointment. A failure to notify the council through your manager of such allegations could result in disciplinary action being commenced against you, which may result in the termination of your employment.

## **16.21 Intellectual property rights, copyright etc**

16.21.1 Any inventions, writings or drawings created in the course of an employee's normal duties are considered the 'intellectual property' of the council and should not be passed on to another party without the permission of the employee's manager.

16.21.2 Employees must not infringe copyright. Downloading, copying and/or distribution of copyright material including literature, text, music, sound, pictures, software and electronic files is

prohibited unless the employee has the correct licences or permissions.

## **16.22 Tendering issues**

- 16.22.1 Employees involved in tendering and dealing with contractors should be clear on the separation of service user and contractor roles within the Council. Employees must follow the procedures and rules incorporated in the Council's Financial Regulations, Financial Procedures, and rules/procedures relating to Contracts and Procurement requirements. Senior employees who have a service user and/or contractor responsibility must be aware of the need for accountability and openness.
- 16.22.2 Orders and contracts must be awarded on merit, in accordance with the Council's procurement regulations and demonstrating best value has been achieved. Employees must demonstrate impartiality. No part of the community should be discriminated against.
- 16.22.3 Employees in service user or contractor units must exercise fairness and impartiality when dealing with customers, suppliers, other contractors and sub-contractors.
- 16.22.4 Employees who have access to confidential information on tenders or costs, for either internal or external contractors, must not disclose that information to any unauthorised party, subject to the Freedom of Information Regulations.
- 16.22.5 Any employees contemplating a management buy-out should inform their manager as soon as they have formed an intent and withdraw from the contract awarding process.
- 16.22.6 Employees should ensure that no preferential treatment is shown to current or former employees, or their partners, relatives or assistants, in awarding contracts to businesses run by or employing them in a managerial capacity

## **16.23 Use of financial resources**

- 16.23.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should

strive to ensure value for money to the community and behave in a way that minimises a risk of legal challenge to the authority.

- 16.23.2 Employees must comply with the Council's financial regulations and procurement regulations to safeguard assets and the use of financial resources.
- 16.23.3 Employees should inform a member of the Leadership Team, who will in turn inform the Director for Finance, Risk and Performance (S151 Officer), the Head of Paid Service and the Director of any irregularity or suspected irregularity.
- 16.23.4 The Council has an Anti-Fraud and Anti-Corruption Strategy, and Disclosure (Whistleblowing) Code. All employees must familiarise themselves with the contents of these documents.

## **16.24 Sponsorship - Giving and Receiving**

- 16.24.1 When an outside organisation wishes to sponsor a council event, the basic conventions concerning acceptance of gifts and hospitality apply (see paragraph 16.8). Acceptance of any support must come about through a transparent decision making process and the support accepted must be recorded.
- 16.24.2 Where the Council wishes to sponsor an event or service, no employee, partner or relative must benefit from the sponsorship in a direct way without there being a full disclosure to a member of the Leadership Team of any such interest.
- 16.24.3 When the Council gives support in the community, through sponsorship, grant aid or other means, employees should ensure that impartial advice is given and there is no conflict of interest involved.

## **16.25 Standards of dress**

- 16.25.1 The Council considers the way employees dress and their appearance to be of significant importance in portraying a professional image to all users of its services whether they are Councillors, visitors, residents of the district or colleagues.

- 16.25.2 All employees are individually responsible for their general presentation, appearance and personal hygiene, and have a responsibility to consider how others may perceive their appearance.
- 16.25.3 Employees are expected to dress appropriately for the duties of their post and are encouraged to adopt a common sense approach with regard to the clothing and jewellery that they wear to work. All external business meetings and contact with the public will require business dress, while more casual approach is permissible for employees working in the back office environment.
- 16.25.4 The council operates a 'dress down Friday' where employees may wear jeans and t-shirts. However, employees must ensure that casual dress is appropriate for the workplace.

## **16.26 Breaches of the Code of Conduct**

- 16.26.1 Any breach of the Code of Conduct will be investigated and may lead to disciplinary action. Breaches fall into two main categories:
- (a) Breaches of the Code of Conduct which, if substantiated, constitute gross misconduct and will normally lead to summary dismissal, i.e. dismissal without notice or pay in lieu of notice and without previous warnings, following investigation and a disciplinary hearing. Gross misconduct is defined by East Herts Council as those acts which are so serious in their nature that they destroy the employment relationship between the employee and the employer and make any further working relationship and trust impossible.
  - (b) Breaches of the Code of Conduct which, if substantiated, warrant lesser penalties.
- 16.26.2 Further details and examples are incorporated into East Herts Council's Disciplinary Policy.

## APPENDIX 1

### CODE OF CONDUCT

I have read and understood the procedures:

Name: .....

Job Title: .....

Team/Service: .....

Signature: .....

Dated: .....

## APPENDIX 2

### **GIFTS & HOSPITALITY DECLARATION FORM** **(Received or declined)**

This form is for employees to declare any gifts or hospitality **whether they have been accepted or not.**

Please give your completed declaration form to your Director for approval.

A signed copy of your decision will be filed in the Gifts and Hospitality Register held by the Executive Support Team and a copy will be returned to you.

Name \_\_\_\_\_

Job title \_\_\_\_\_

Date of Declaration \_\_\_\_\_

#### **Details of the declaration**

Nature of gift / hospitality being / has been offered \_\_\_\_\_

Date received / to be received \_\_\_\_\_

Name of company /organisation / individual offering gift / hospitality \_\_\_\_\_

Has the gift / hospitality been accepted **or** declined? \_\_\_\_\_

Reason for accepting or declining \_\_\_\_\_

Signed (Employee) \_\_\_\_\_

Date

---

Signed (Director)

---

Date

---

One copy to be secured in the Gifts & Hospitality Register maintained by the Executive Support Team.

One copy to be returned to the employee.

APPENDIX 3

**DECLARATION OF SECONDARY EMPLOYMENT**

Name: \_\_\_\_\_

Job Title: \_\_\_\_\_

Team: \_\_\_\_\_ Service: \_\_\_\_\_

Please submit details below

**Declaration**

I do not believe that this activity conflicts with the business or reputation of East Herts Council. Please outline what controls are in place to prevent any conflicts if there may be possible concerns.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**For Director**

I am satisfied that this activity does not conflict with the business or reputation of East Herts Council.

I have made further comments regarding this declaration (page 2)

Request Approved  Request Denied  Further Comments

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Decision confirmed to officer:

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**Further comments regarding this declaration:**



## **Section 17 - Member/Officer Protocol**

### **17.1 Introduction**

- 17.1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another.
- 17.1.2 The primary responsibility for Members is to set policy as a Member of Council. Officers are responsible for implementing those policies.
- 17.1.3 Given the variety and complexity of such relations, the Protocol does not seek to be prescriptive or comprehensive but does seek to provide guidance on some of the issues that most commonly arise. The approach to these issues will serve as a guide to dealing with other issues. The protocol seeks to supplement and help to interpret but not to supplant the statutory provisions, Members' Code of Conduct and other guidance, the provisions elsewhere in the Constitution, and the disciplinary code which applies to Officers.
- 17.1.4 The Protocol also seeks to reflect the principles underlying the respective rules of conduct that apply to Members and Officers. Its purpose, therefore, is to enhance and maintain the integrity of local government by seeking high standards of personal conduct.
- 17.1.5 Members and Officers are servants of the public and they are indispensable to one and other, but their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the council.
- 17.1.6 The relationship has to function without compromising the ultimate responsibilities of Officers to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that Officers can legitimately provide to Members. The Protocol seeks to

set a framework that assists the working relationships between Members and Officers.

## **17.2 Roles of Members**

17.2.1 Members undertake many different roles. Broadly these are:

- (a) To determine council policy and provide community leadership
- (b) To monitor and review council performance in delivering services
- (c) To represent the council externally; and
- (d) To act as advocates for their constituents.

## **17.3 Roles of Officers**

17.3.1 Briefly, Officers have the following main roles:

- (a) Providing professional advice to the Council and its various bodies and to individual Members.
- (b) Initiating policy proposals.
- (c) Implementing agreed policy, managing and providing services and being accountable for the efficiency and effectiveness of the services provided.
- (d) Ensuring that the Council always acts in a lawful manner.

## **17.4 Respect and Courtesy**

17.4.1 For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Officers. It is important that both Members and Officers remember their respective obligations to enhance the Council's reputation and to do what they can to avoid

criticism of other Members, or other Officers, in public places.

17.4.2 Members should not raise matters relating to the conduct or capability of an Officer at meetings held in public or before the press as an Officer has no means of responding to such criticisms in public. If a Member is dissatisfied with the conduct of an Officer, they should refer the matter to the relevant individual:

- If dissatisfied with the conduct of an Officer, they should refer the matter to the relevant Director who will carry out an investigation using the Council's agreed procedure.
- If a complaint relates to a Chief Officer or the Statutory Officers the matter should be referred to the Chief Executive.
- If a complaint relates to the Chief Executive the matter should be referred to the Leader of the Council.

## **17.5 Undue Pressure**

17.5.1 A Member should not apply undue pressure on an Officer either to do anything that they are not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.

17.5.2 Members must respect the impartiality of Officers and do nothing to compromise it, e.g. by insisting that an Officer change their professional advice.

17.5.3 Similarly, an Officer must neither seek to use undue influence on an individual Member to make a decision in their favour, nor raise personal matters to do with their job, nor make claims or allegations about other Officers.

## **17.6 Familiarity**

- 17.6.1 Close personal familiarity between individual Members and Officers can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of Confidential Information. Such familiarity could also cause embarrassment to other Members and/or Officers and could give rise to suspicions of favouritism.
- 17.6.2 Members should be aware of the need for a professional relationship with Officers.
- 17.6.3 Any familial relations between a Member and an Officer must be declared to the Monitoring Officer as soon as it is known about. If the Officer is about to be appointed, following a recruitment process, the Monitoring Officer must confirm in writing that the appointment is still acceptable.

## **17.7 Breach of Protocol**

- 17.7.1 If a Member considers that he has not been treated with proper respect or courtesy they may raise the issue with the Officer's line manager. If direct discussion with the line manager does not resolve the complaint it should be referred to the Director responsible for the Officer concerned. Breach of the Protocol may give rise to disciplinary proceedings against an Officer if the circumstances warrant it.
- 17.7.2 If an Officer considers that a Member has contravened the protocol they should consult their line manager who will, if necessary, involve the Director. In certain circumstances breach of the Protocol may also constitute a breach of the Members' Code of Conduct. If the breach is sufficiently serious this may warrant a formal reference to the Monitoring Officer as a complaint to be considered for potential investigation by the Standards Committee but many complaints will be capable of an informal resolution. The Monitoring Officer or the Chief Executive will assist in this process if necessary.

## **17.8 Provision of Advice and Information to Members**

- 17.8.1 Members are free to approach Officers of the Council to provide them with such information and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.
- 17.8.2 Officers should always endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any delay in dealing with an enquiry. As a minimum the timescale for responding to correspondence should be observed i.e. either a full response or, if this is not possible, an acknowledgement that fully explains what is happening within five working days of the receipt of the enquiry.
- 17.8.3 The legal rights of Members to inspect Council documents are covered partly by statute and partly by common law.
- 17.8.4 The Access to Information Procedure Rules in the Constitution explain the position with regard to access to papers relating to the business of a Council body.
- 17.8.5 The exercise of the common law right depends upon a Member's ability to demonstrate a "need to know". In this respect a Member has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient.
- 17.8.6 Members may be entitled under the Freedom of Information Act 2000 to receive information which falls outside their common law rights based on the "need to know". Officers are encouraged to supply documents to Members without the need for a formal Freedom of Information request if it is apparent from the Member's enquiry that any individual would be entitled to receive such documentation. The Council's Information Governance and Data Protection Manager will be able

to advise on whether any request would fall within the Freedom of Information Act 2000.

- 17.8.7 The information sought by a Member should only be provided by the respective service as long as it is within the limits of the service's resources. For their part, Members should seek to act reasonably in the number and content of the requests they make.
- 17.8.8 It is important for services and their staff to keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the areas that they represent. Local Members should be informed about proposals that affect their Wards and should also be invited to attend Council initiated events within their Wards.
- 17.8.9 If a Member asks for specific information relating to the work of a particular service which is on the agenda of a Committee meeting, and it appears possible or likely that the issue could be raised or question asked on the basis of the information provided at that meeting, then the appropriate Executive Member or Committee Chair concerned should be advised about the information provided.
- 17.8.10 Officers have to advise Members from time to time that a certain course of action cannot be carried out. Members sometimes assume that this is a case of Officers deliberately obstructing the wishes of politicians. Officers are employed to give unbiased professional advice and. Officers are encouraged to accompany negative advice with suggestions as to how Members might achieve some or all of their objectives in other ways.

## **17.9 Confidentiality**

- 17.9.1 Members should be aware of their data protection responsibility. The Council may disclose personal information to a Member which should only be used for the purposes of carrying out their duties.

- 17.9.2 Members must not disclose information given to them in confidence by anyone, or information acquired which they believe, or ought reasonably to be aware, is of a confidential nature, except where:
- (a) they have the consent of a person authorised to give it;
  - (b) they are required by law to do so;
  - (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (d) the disclosure is:
    - (i) reasonable and in the public interest; and
    - (ii) made in good faith and in compliance with the reasonable requirements of the authority.
- 17.9.3 Confidential Committee papers (pink papers) are to be treated as Confidential Information unless the relevant Committee resolves not to exclude press and public. Members are reminded that the author of the report makes the initial decision as to whether or not the papers are to be treated as confidential. The decision as to whether they remain confidential is for the Committee. Other information may be confidential if it falls into one of the seven definitions of information that is exempt from disclosure to the public and press which is at paragraph 12.9.4 in Section 12 - Access to Information Procedure Rules.
- 17.9.4 Officers should make it clear to Members if they are giving them Confidential Information. If a Member is not sure whether information is confidential, they should ask the relevant Officer and treat the information as confidential in the meantime.
- 17.9.5 Any Council information provided to a Member must only be used by the Member in connection with the

proper performance of the Member's duties as a Member of the Council.

- 17.9.6 If a Member receives Confidential Information and considers it should be disclosed to another person because it is reasonable and in the public interest to do so then he or she must first consult with the Monitoring Officer and shall not disclose the information without having regard to any advice given by that Officer.

## **17.10 Safeguarding**

- 17.10.1 Members and Officers must be cognisant of the councils safeguarding policy in their dealings with each other at all times and seek advice from the Council's Lead Safeguarding Officer.

## **17.11 Involvement of Ward Members**

- 17.11.1 Ward Members should be kept informed and consulted on relevant matters affecting their Ward, i.e. on Planning, Licensing and other relevant matters. In the case of public meetings in a particular locality, the Ward Member will normally be invited to attend and could normally be expected to be consulted on any form or consultative exercise on local issues.
- 17.11.2 So far as decision making is concerned, however, Members remain accountable to the whole electorate of the District and must make a personal decision on matters which come before them, balancing the interests of the electorate as a whole, including those members of the public who did not vote for them.

## **17.12 Provision of Support Services to Members**

- 17.12.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, word processing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used

in connection with party political or campaigning activity or for private purposes.

### **17.13 Correspondence**

17.13.1 Official letters on behalf of the Council should be sent in the name of the appropriate Officer, rather than in the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to that Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

17.13.2 When acting in an official capacity Members shall only use the Council email address provided for that Member when acting in an official capacity as a Member. The use of personal e-mail addresses or those of other authorities (for example town/county) is strictly prohibited as it exposes the council to significant risks under the General Data Protection Regulation (Regulation (EU) 2016/679)

### **17.14 The Council's Role as Employer**

17.14.1 In their dealings with Officers, Members should recognise and have regard to the Council's role as employer. Members should be aware that Officers could rely on inappropriate behaviour of a Member in an employment case against the Council.

### **17.15 Political Activity**

17.15.1 There are a number of constraints that apply to an Officer who occupies a post that is designated as "politically restricted" under the terms of the Local Government and Housing Act 1989.

### **17.16 Political Party Group Meetings**

- 17.16.1 Party groups are an integral part of the way the council works and it is a proper function of Officers to support and contribute to party group consideration if required.
- 17.16.2 It is common for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups provided they maintain a stance which is politically impartial.
- 17.16.3 Any attendance of an Officer at a meeting of a party group shall be with the prior agreement of the Chief Executive. Usually the only Officers involved in attending group meetings will be the Chief Executive, Deputy Chief Executive and Directors.
- 17.16.4 Officers will provide factual information and advice only on areas within their professional remit and in relation to issues currently or shortly to be considered by the Council, provided that the request does not relate to an individual matter such as a planning application, or does not disclose information given at a confidential briefing with the Executive. Such advice should be available to all party groups.
- 17.16.5 Any such meeting will be held at the council offices or virtually.
- 17.16.6 The only other persons present at such a meeting should be Members of the Council.
- 17.16.7 Officers must leave group meetings before groups enter into political discussion. It is important that the political neutrality of Officers is preserved and that group confidentiality is maintained by Officers.
- 17.16.8 Both Members and Officers are subject to their own Codes of Conduct which can be found in the Constitution. This Protocol provides guidance on working relationships between Members and Officers. It is essential that both are familiar with the detailed

obligations in their respective Codes of Conduct which will prevail in the event of any conflict between the Codes and this Protocol.

## **17.17 Sanctions**

- 17.17.1 Complaints about any breach of this Protocol by a Member may be referred to the Monitoring Officer. It should be noted that certain breaches may also amount to breaches of the Code of Conduct for Members.
- 17.17.2 Complaints about any breach of this protocol by an Officer may be referred to the Chief Executive or the relevant Director.

# Section 18 - Gifts and Hospitality Code of Conduct for Members

## 18.1 Introduction

18.1.1 The acceptance of gifts and hospitality by Members reflects directly upon the perception of both Members and the Council - as acting either in the public interest or for the personal advantage of friends/relatives or members' themselves.

18.1.2 The law on the acceptance of gifts and hospitality is set out in the Bribery Act 2010. These legal requirements are supplemented by the procedures which have been adopted by Council, to provide clear set out rules for the protection of both Members and the Council. This policy is to be read in conjunction with the Council's Code of Conduct for Members. Acceptance of a gift or hospitality in breach of the Code, or failure to declare receipt of such a gift or hospitality, can lead to disqualification from holding any public office for a period of up to five years. Corrupt acceptance of a gift or hospitality can lead to an unlimited fine and up to ten years' imprisonment.

18.1.3 This Code of Conduct sets out:

- (a) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality;
- (b) a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it;

- (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the Council.

18.1.4 This Code does not apply to the acceptance of any facilities or hospitality which may be provided to you by the Council itself.

## **18.2 General Principles**

18.2.1 In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do so would be in breach of one or more of these principles:

18.2.2 Never accept a gift or hospitality as an inducement or reward for anything you do as a Member

- (a) As a Member, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.
- (b) The Bribery Act 2010 makes it an offence for an individual to bribe another person or to accept a bribe. The maximum penalty for a conviction for one of these offences is up to ten years imprisonment. There is an additional offence which applies to organisations of failing to prevent bribery. On a conviction for this offence, the organisation could face an unlimited fine.
- (c) Further, the Council's Code of Conduct for Members provides that you must act in the public interest,

serving the Council and the whole community, rather than acting in the interests of any particular individual or section of the community, and that you must not place yourself under any financial or other obligation to outside individuals or organisation that might seek to influence you in the performance of your official duties.

- 18.2.3 You should only accept a gift or hospitality if there is a commensurate benefit to the Council.
- (a) The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Council which would not have been available but for the acceptance of that gift or hospitality.
  - (b) Acceptance of hospitality can confer an advantage on the Council, such as an opportunity to progress the business of the Council expeditiously through a working lunch, or to canvass the interests of the Council and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. Unless the benefit to the Council is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.
  - (c) As set out above, the Council's code provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a Member of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the Council, would be a breach of the Code.
- 18.2.4 Never accept a gift or hospitality if acceptance might be open to misinterpretation

- (a) The appearance of impropriety can be damaging to the Council and to you as a Councillor. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the Council favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must consider whether to refuse the gift or hospitality or take appropriate steps to take to reduce the likelihood of such a misunderstanding.
  
- (b) Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:
  - (i) occasions when the Council is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer.
  
  - (ii) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination,
  
  - (iii) funding decisions, when the Council is determining a grant application by any person or organisation.

18.2.5 Never accept a gift or hospitality which puts you under an improper obligation

- (a) Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the Council.
- (b) Cash or monetary gifts should always be refused and the Monitoring Officer should be notified.

#### 18.2.6 Never solicit a gift or hospitality

You must never solicit or invite an offer of a gift or hospitality in connection with your position as a Member unless the acceptance of that gift or hospitality would be permitted under this Code. You should also take care to avoid giving any indication that you might be open to such any improper offer.

### **18.3 Accepting gifts – the procedures**

#### 18.3.1 General consent provisions

For clarity, the Council has agreed that you may accept gifts and hospitality in the following circumstances:

- (a) civic hospitality provided by another public body
- (b) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits

- (c) tickets for sporting, cultural and entertainment events which are sponsored by the Council
- (d) small gifts of low intrinsic value, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise
- (e) a modest alcoholic or soft drink on the occasion of an accidental social meeting
- (f) a modest working lunch in the course of a meeting in the offices of a party with whom the Council has an existing business connection where this is required in order to facilitate the conduct of that business.
- (g) modest souvenir gifts from another public body given on the occasion of a visit by or to the Council
- (h) Hospitality received in the course of an external visit or meeting which has been duly authorised by the Council.
- (i) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Member deals with the gift strictly in accordance with the following procedure: The Member must, as soon as practicable after the receipt of the gift, pass it to the Chief Executive together with a written statement identifying the information set out in Paragraph 4 below. The Chief

Executive will then arrange to write to the person or organisation making the gift thanking them on your behalf for the gift and either returning it or donating the gift to a charity or other good cause as the Chief Executive thinks fit.

### 18.3.2 Special consent provisions

- (a) If you wish to accept any gift or hospitality which is in accordance with the General Principles set out in paragraph 18.2 above, but is not within any of the general consents set out in paragraph 18.3.1, you may only do so if you have previously obtained specific consent in accordance with the following procedure:
- (b) You must make an application in writing to the Monitoring Officer, setting out:
  - (i) the nature and your estimate of the market value of the gift or hospitality
  - (ii) who the invitation or offer has been made by or on behalf of
  - (iii) the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the Council in which they have been involved
  - (iv) any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the Council

- (v) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper
- (c) You must not accept the gift or hospitality until you have received the appropriate consent.
- (d) The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the Council's accounts for the relevant year. You should note that this does **not** relieve you of the obligation to register the receipt of gifts and hospitality in accordance with paragraph 18.4, below. Any approval will also be placed on the Council's website.

## **18.4 Reporting**

- 18.4.1 Where you accept any gift or hospitality which you estimate to have **a market value or cost of provision of £50 or greater**, you must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer. A form for this purpose is attached to this Code, but you can send the same information by any convenient means. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the Council's accounts for the year in question.
- 18.4.2 Even if the value of the gift or hospitality is less than £50, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may make a voluntary declaration in the same manner to ensure openness regarding the gift or hospitality.

- 18.4.3 While it may be appropriate to accept a token gift or gift of low value on one occasion, it is recommended that you should refuse repeated gifts from the same source, even if these are individually not of significant value.
- 18.4.4 If in doubt as to the value of a gift or hospitality, you should register it, as a matter of good practice and in accordance with the principles of openness and accountability in public life. You may have to estimate how much a gift or hospitality is worth, by considering how much you reasonably think it would cost a member of the public to buy the gift or provide the hospitality in question.

## **18.5 Gifts to the Council**

- 18.5.1 Gifts to the Council may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the Council. You should not solicit any such gift on behalf of the Council except where the Council has formally identified the opportunity for participation by an external party and how that participation is to be secured.. If you receive such an offer on behalf of the Council, you must first consider whether it is appropriate for the Council to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the Council under any improper obligation, whether there is a real benefit to the Council which would outweigh any dis-benefits).
- 18.5.2 If you do not have delegated authority by the Council to accept the gift, you should report the offer directly to the Chief Executive who has such delegated authority, together with your recommendation. The Chief Executive will then write back to the person or organisation making the offer

to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the Council. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the Council to accept the gift, you should consult the Chief Executive and/or the Monitoring Officer directly.

## **18.6 Gifts from Members**

18.6.1 A Member may choose to help a resident in need by personally assisting them with items such as second hand furniture or food stuffs. Members should be careful that they maintain a professional and transparent relationship in such circumstances and that no such gifts could be perceived as inappropriate in any sense. Members may wish to record these gifts in the same way as the recording of gifts received by members set out in paragraph 18.4 above to aid transparency.

## **18.7 Definitions**

18.7.1 "Gift or hospitality" includes:

- (a) the free gift of any goods or services
- (b) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public
- (c) the opportunity to obtain any goods or services which are not available to the general public
- (d) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

18.7.2 References to the “value” or “cost” of any gift or hospitality are references to the higher of:

- (a) your estimate of the cost to the person or organisation of providing the gift or consideration
- (b) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

**To: The Monitoring Officer, East Herts Council**

**Declaration of Receipt of Gifts or Hospitality**

|                                                                                                      |  |
|------------------------------------------------------------------------------------------------------|--|
| <b>Member's Name</b>                                                                                 |  |
| <b>Member's Address</b>                                                                              |  |
| <b>What was the gift or hospitality?</b>                                                             |  |
| <b>What is your best estimate of its market value or cost?</b>                                       |  |
| <b>Who provided it?</b>                                                                              |  |
| <b>When and where did you receive it?</b>                                                            |  |
| <b>Does it come within one of the general consents set out in the Code of Conduct? If so, which?</b> |  |
| <b>Did you get the consent of any officer before accepting it?</b>                                   |  |
| <b>Were there any special circumstances justifying acceptance of this gift or hospitality?</b>       |  |
| <b>Do you have any contact in your job with the person or organisation providing the gift or</b>     |  |

|                     |              |
|---------------------|--------------|
| <b>hospitality?</b> |              |
| <b>Signed:</b>      | <b>Date:</b> |

## **Section 19 - Media Protocol**

### **19.1 Introduction**

19.1.1 Communication between the Council and the public is vital for access to services and for local democracy.

19.1.2 Because we recognise the importance of the media to effective public communications, this protocol has been produced which sets out:

- (a) the professional support offered by the Communications Team
- (b) the roles of Members and officers in media relations
- (c) the legal framework for publicity
- (d) a formal account of media relations practice at East Herts.

19.1.3 It is designed to help everyone in the Council to work more effectively together and with our contacts in the local or national media.

### **19.2 The Role of the Communications Team**

19.2.1 The purpose of the Communications Team is to increase public awareness of the Council's services and functions, to explain to the public and stakeholders what the policies and priorities are and to support the organisation in gathering public views on services, policies and priorities.

19.2.2 It fulfils this role through the production of content via the following printed media and digital media channels:

- (a) press releases and responses to press enquiries
- (b) press briefings
- (c) the hosting of photocalls and media events

- (d) electronic newsletters (network)
- (e) council website
- (f) council social media accounts (including Facebook, Twitter, Instagram, LinkedIn and Youtube)

19.2.3 The Communications Team provides Officers and Members with support on any communications matter that relates to the reputation of the Council as a whole, its policies and its services.

### **19.3 Who speaks for East Herts Council to the Media?**

19.3.1 As democratically elected and publicly accountable representatives, the Members of East Herts are the primary spokespeople for the authority with the media. Only Members who hold particular positions should be individually identified in publicity.

19.3.2 These should be taken as:

- (a) Leader and other Committee Chairmen
- (b) Chairman and Vice Chairman (in their ceremonial roles)
- (c) Executive Members

19.3.3 Therefore:

- (a) The Leader is the main spokesperson on cross cutting policies and issues at national level.
- (b) Executive Members are spokespeople for the Council in their respective portfolios.
- (c) Other leading Members (such as Chairmen of Scrutiny and Development Management) will be quoted and referred to in relation to issues within their own areas of expertise.
- (d) The Chairman will be the spokesman on all matters of a civic or ceremonial nature.

- (e) Officers are also important spokespeople for the Council. Whilst the Communications Team can and will handle many factual enquiries, there will be occasions when more specialist or technical information will be required.
- (f) In these instances it is expected that senior officers (Chief Officers and Directors) will handle media interviews.
- (g) Other officers, with the agreement of the respective Directors, may also be the most appropriate person to handle media enquiries and this can be facilitated with support from the Communications Team.

## **19.4 Managing media enquiries**

- 19.4.1 Media enquiries will be responded to as soon as possible (within 24 hours), unless agreed otherwise.
- 19.4.2 Deadlines for enquiries can vary. The journalist making the enquiry will be asked for a deadline and the Communications Team will endeavour to respond within this timeframe.
- 19.4.3 In certain circumstances, the deadline will not be achievable, such as when several questions have been asked in one single enquiry or the relevant Officer is not available. In such cases, the journalist making the enquiry will be notified and an agreement reached as to a new response deadline.
- 19.4.4 The media enquiry process is as follows:
  - (a) The media contact the council for a comment, clarification is sought on the topic and the deadline is checked and confirmed.
  - (b) The Communications Team contact the relevant Officer(s) to request information
  - (c) The Communications Team draft a response/statement
  - (d) The Officer who provided the information and the relevant Director asked to approve or amend the prepared statement

- (e) The statement sent to the Executive Member for amendments and approval
- (f) Statement is re-circulated with amendments if necessary
- (g) The Communications Team sends statement to the media.

## **19.5 Other officers**

- 19.5.1 Officers who are contacted directly by the media without advance knowledge, agreement or preparation are advised to politely redirect the request to the Communications Team.
- 19.5.2 All queries are subject to media deadlines. By missing a deadline, a story may appear without a council comment and the council's reputation could suffer. Contact from the Communications Team with a media query should be treated as a matter of priority and dealt with as soon as possible.
- 19.5.3 The Communications Officer should be provided with as much information as possible. The Communications Officer will agree with the Officer what goes in the public domain.
- 19.5.4 There are no circumstances where it would be acceptable to refuse to give a response. If the response is circumscribed, for example because of data or child protection issues, then the Communications Team will explain why in an official response.

## **19.6 Ward Members**

- 19.6.1 The Communications Team is happy to advise Ward Members who are approached directly by the media for comment/interview but it is not a political resource.

## **19.7 The Legal Framework**

- 19.7.1 Council resources can only be used for non party-political publicity of the work of the Council.

- 19.7.2 All Council publicity and media work is governed by provisions in the Local Government Act 1972, the Local Government Act 1986 and the Government's Code of Recommended Practice on Local Authority Publicity 1988 as Revised 2001.
- 19.7.3 Collectively these pieces of legislation are intended to ensure that public money is not spent inappropriately on political communications. They require authorities to ensure that "Any publicity describing the Council's policies and aims should be as objective as possible, concentrating on facts or explanation or both." They also forbid Councils from publicity which could in any way be construed as being designed to "affect support for a political party".
- 19.7.4 Council publicity should focus on publicising the democratically agreed policy and priorities.

## **19.8 Election time**

- 19.8.1 Special restrictions apply during the period prior to elections.
- 19.8.2 The updated Code of Practice on Local Authority Publicity requires that proactive publicity should be precluded in all its forms for candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual Members or groups of Members.

Note: It is acceptable for the Council to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a Member level response to an important event outside the Council's control. Proactive events arranged in this period should not involve Members likely to be standing for election.

- 19.8.3 Consequently, no Members will be quoted in news releases produced by East Herts Council in the period leading up to an election.

- 19.8.4 Wider publicity initiatives also need to be considered carefully during this period.
- 19.8.5 In the advent of an election, it is possible that prospective candidates (including non-District elections) may request visits to Council services and premises. All candidates must be treated equally and there is no requirement for such requests to be refused. Council staff should not be included in any photographs that may be arranged during such visits.
- 19.8.6 Within East Herts the Communications Team and/or Legal Services colleagues are best placed to advise and support colleagues on any legal implications of publicity. If in doubt, their advice should also be sought.

## **19.9 General Media Relations Practice at East Herts**

- 19.9.1 High performing councils proactively manage media relations, rather than letting the media set the agenda.
- 19.9.2 To maximise positive publicity across all media, the Communications Team use a Public Relations (PR) forward plan with activity agreed a quarter ahead.
- 19.9.3 The Communications Team will promote:
- (a) Agreed service initiatives in liaison with the Leader of the Council, Chief Officers and Heads of Service.
  - (b) Agreed service initiatives as requested by senior managers in liaison with the Leader of the Council and appropriate Executive Members.
  - (c) The role of scrutiny within the overall democratic process, as the opportunity arises, in liaison with the Chief Executive and the Leader of the Council.
  - (d) Other activities and developments of the Council through news releases and publications, quoting Executive Members and partner organisations and/or service users, where their contributions add to the relevance and interest of the story.

- (e) Ceremonial and cross-organisational events in liaison with the Chairman of the Council.

## **19.10 Photography / video**

- 19.10.1 Photographs and videos are an excellent way to generate publicity, especially through the press and on social media. However, there are some important issues to consider, especially if children or young people are involved.
- 19.10.2 Where children are involved in media events at which film cameras and/or photographers are likely to be present, the lead Officer must obtain formal permission from the parent or guardian responsible for the child/young person. With older children (16 - 18 year olds) it is good practice to seek their permission directly as well as asking their parent or guardian. Consent forms are available from the Communications Team.
- 19.10.3 If it is not possible to gain consent due to the nature of the event being photographed, signs should be displayed for all attending the event informing them that photographs will be taken.

## **19.11 At Full Council and Executive Meetings**

- 19.11.1 Agendas will be published on the council's website ahead of the meeting.
- 19.11.2 Where appropriate, press releases will be issued following the meeting describing the decision and quoting the Leader or Executive Member as appropriate. Such releases will highlight key issues and will help to explain and publicise Council policies and services.
- 19.11.3 Motions and questions from individual Members shown on the agenda will not be publicised through press releases.
- 19.11.4 The Communications Team will respond to subsequent press enquiries by providing a factual explanation at officer level (either directly or through another officer). Where a matter of policy is in question, the matter will be referred to the Leader

of the Council or the appropriate Executive Member. Interviews and photo opportunities will be facilitated.

- 19.11.5 Where a reporter wishes to find out what was said by individual Members during a debate, Officers will refer the reporter to the webcast of the meeting in the first instance, or the Member directly.

## **19.12 At Other Council Meetings**

- 19.12.1 Communications Officers will respond to any press enquiries before the meeting by providing a factual explanation at officer level. Where a matter of policy is in question, they will consult the appropriate Chair and inform the Chief Executive and/or the Executive Member.

- 19.12.2 If the meeting (e.g. Scrutiny) collectively agrees to issue a press release on any given topic, this will be prepared and issued by Communications Staff in consultation with and quoting the relevant Chair following the meeting. These releases will be issued in line with the information item, factually describing the outcome.

- 19.12.3 Where a matter of policy is in question, Communications Staff will advise the appropriate Chief Officer and/or Executive Member that a release is being issued and will respond to press enquiries following the meeting by providing a factual explanation of the outcome at officer level, in line with the information item.

## **19.13 Political Communications**

- 19.13.1 The Communications Team can and will only provide professional non party-political communications advice to Members on request.
- 19.13.2 Nothing in the protocol precludes any political group or individual councillor from issuing their own press information and making any other arrangements for printed or digital media coverage.



**Section 20 – Members’ Allowances**  
**Scheme**

**LOCAL GOVERNMENT AND HOUSING ACT 1989**

**AND**

**LOCAL AUTHORITIES (MEMBERS’ ALLOWANCES)**  
**REGULATIONS 2003 (AS AMENDED)**

**MEMBERS’ ALLOWANCES SCHEME**  
**(including Special Responsibility Allowances)**

(Revised October 2025)

## **20.1 Introduction**

20.1.1 This scheme is made by East Hertfordshire Council (“the Council”) pursuant to the Local Authorities (Members’ Allowances) (England) Regulations 2003. It was approved by the Council on 18 October 2023 after consideration of the recommendations from the Independent Remuneration Panel.

20.1.2 The Scheme will apply for the civic year from the next day after the meeting of the Council to the date of the next annual meeting of the Council, unless the Council decides otherwise.

## **20.2 Basic Allowance**

20.2.1 Subject to paragraphs 20.9 and 20.10 below, for each year a basic allowance shall be paid to each Member as set out in Schedule 1 to the scheme.

20.2.2 The basic allowance includes incidental costs such as stationery, printing telephone and broadband.

20.2.3 The basic allowance is to be paid in equal instalments on the 15<sup>th</sup> day of each month.

## **20.3 Special Responsibility Allowance (SRA)**

20.3.1 Subject to paragraphs 20.9 and 20.10 below, for each year a SRA shall be paid to those Members who hold the special responsibilities that are set out in Schedule 1 to the scheme.

20.3.2 Members will be restricted to receiving only one SRA (that of the higher value) if they occupy two or more posts which attract SRAs.

20.3.3 The SRA is to be paid in equal instalments on the 15<sup>th</sup> day of each month.

## **20.4 Indexation**

20.4.1 Neither the basic allowance nor the SRAs are index linked.

## **20.5 Travel and Subsistence Allowance**

20.5.1 Members may claim travel allowance in respect of their travel to and from the following approved duties:

- (a) meetings covered by the list of duties referred to in Schedule 2;
- (b) meetings of outside bodies and organisations to which they have been appointed by the Council as set out in Schedule 3, provided that no other arrangements for payment exist in respect of such bodies to which the Authority makes appointments or nominations; and
- (c) meetings with the Chief Executive, Deputy Chief Executive and/or Heads of Service/Service Managers, subject to such meetings having been pre-arranged and not relating specifically to a Member's ward work or activities.

20.5.2 Travel allowances in connection with attendance at approved duties may be claimed, subject to the following:

- (a) the claim must be for actual mileage incurred/actual public transport used; and
- (b) the base for starting and finishing all journeys will normally be regarded as the member's home address, provided that the home address is within the District or an adjacent District/Borough.

20.5.3 Subsistence allowances in connection with attendance at approved duties may be claimed, subject to the following. Members are able to claim subsistence allowances where they are prevented by official duties from taking a meal at home or other place where normally taken. Claims will not be permitted where

refreshment has been provided by the meeting organiser.

- 20.5.4 VAT receipts for the purchase of fuel must be provided with all claims for travel expenses. Receipts must be provided for all subsistence/hotel accommodation/public transport claims and for any expenditure incurred on parking fees when using a vehicle on an approved duty.
- 20.5.5 Details of the rates of travel and subsistence allowances are set out in Schedule 1. The rates are index linked to the rates payable to officers.

## **20.6 Child Care and Dependant Carers' Allowance**

- 20.6.1 Contribution towards costs incurred for the provision of care may be claimed, at the rates set out in Schedule 1, in respect of care costs incurred due to attendance at approved duties. Claims are subject to the following.
- 20.6.2 The principle of providing the allowance is to allow members who are carers to undertake their duties and to allow others who might otherwise be deterred from Council membership by virtue of caring responsibilities to consider standing for election. Contributions in 20.6.1 above will be paid towards care in respect of:
- (a) children aged 14 or under;
  - (b) a dependant, that is, someone who relies on the member for care (the member's spouse, partner, child, parent, dependant relative or someone who lives in the same household as the member but who is not his or her employee, tenant, lodger or boarder);

In each case, the dependant must normally live with the Member as part of the family and be unable to be left unsupervised. The carer can be any responsible mature person who does not normally live with the claimant as part of the family. The allowance should not be payable in respect of members of the member's immediate and close family.

20.6.3 Receipts must be provided for all carer claims.

## **20.7 Homeworking Allowance**

20.7.1 Contribution toward the costs incurred in homeworking is included within the basic allowance.

## **20.8 Pensions**

20.8.1 No Members be admitted to the Local Government Pension Scheme.

## **20.9 Renunciation**

20.9.1 A Member may, by notice in writing given to the Monitoring Officer, elect to forego any part of their entitlement to an allowance under this scheme.

## **20.10 Part Year Entitlements**

20.10.1 Where a Member's term of office begins or ends, or the holding of a special responsibility begins or ends, part way in the year, then the entitlement to any allowances due to a Member will be in the same proportion as the number of days served in the year.

20.10.2 When an amendment to this scheme changes the amount to which a Member is entitled, then the existing rates are payable ending with the day before the amendment takes effect.

20.10.3 The s151 Officer be authorised to determine allowance entitlements in circumstances where:

- (a) the scheme of allowances is amended at any time throughout the year;
- (b) an individual ceases to be a Member, or an individual is elected to the office of Councillor of East Hertfordshire Council;

- (c) in the event that a new chairmanship of a Committee or Panel is created the s151 Officer be authorised to determine the allowance entitlement by reference to the lowest relevant comparable allowance until review by the Panel.

## **20.11 Claims**

- 20.11.1 Claims should be made using method prescribed by the Council, on a monthly basis. Claims submitted by the fifth day of the month will be processed for payment on the 15<sup>th</sup> day of that month. Claims received after the 5<sup>th</sup> day will be processed for payment in the following month.
- 20.11.2 Receipts as described in paragraphs 20.5.4 and 20.6.3 above, must accompany each claim.
- 20.11.3 In accordance with the Council's Financial Regulations, claims for duties performed more than three months ago are not permitted.

## **20.12 Record of Allowances**

- 20.12.1 The Deputy Chief Executive or Senior Human Resources Officer shall keep a record of all payments made to all Members in accordance with the scheme and the requirements of the Local Authorities (Members' Allowances) (England) Regulations 2003. Such records shall be available for public inspection free of charge at all reasonable times during usual office hours.
- 20.12.2 The Monitoring Officer will issue the required notice under the Regulations providing summary information on the payments made under the scheme each year.

SCHEDULE 1

|                                           | <u>£</u>  |
|-------------------------------------------|-----------|
|                                           |           |
| <u>Basic Allowance :</u>                  | 6,178.79  |
|                                           |           |
| <u>Civic Allowances:</u>                  |           |
| Chairman                                  | 6,500     |
| Vice Chairman                             | 1,450     |
|                                           |           |
| <u>Special Responsibility Allowances:</u> |           |
| Leader of the Council                     | 19,767    |
| Deputy Leader                             | 12,225.96 |
| Executive Member                          | 9,780.96  |
| Committee Chair (Development Management)  | 7,336     |
| Committee Chair (Licensing)               | 6,051     |
| Committee Chair (Human Resources)         | 4,842     |
| Committee Chair (Overview and Scrutiny)   | 6,464.04  |
| Committee Chair (Audit and Governance)    | 6,646.04  |
| Committee Chair (Standards)               | 2,421     |

|                                                                                                                                         |                                                                                                               |
|-----------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| Committee Vice Chair (Development Management)                                                                                           | 2,200                                                                                                         |
| Leader of a minority political group                                                                                                    | A factor of 0.1 of the Basic Allowance multiplied by the number of members                                    |
| <u>Mileage allowance:</u>                                                                                                               |                                                                                                               |
| Motor vehicles ( <i>incl. motor cycles</i> )                                                                                            | £0.45 per mile for the first 10,000 miles of a (return) journey                                               |
| Electric vehicle                                                                                                                        | £0.45 per mile per mile for the first 10,000 miles of a (return) journey                                      |
| Bicycles                                                                                                                                | £0.20 per mile                                                                                                |
|                                                                                                                                         |                                                                                                               |
| <u>Public Transport:</u><br>(including the use of taxis for short journeys where public transport is not convenient)                    | Reimbursement of actual cost or ordinary standard fare, whichever is the lesser, upon production of a receipt |
|                                                                                                                                         |                                                                                                               |
| <u>Carer's Allowance – Dependent care:</u>                                                                                              | Up to £35 per hour                                                                                            |
| <u>Childcare Allowance</u>                                                                                                              | Up to £20 per hour                                                                                            |
| <u>Subsistence Allowance</u> in the case of an absence from the member's normal base, not involving an absence overnight from the usual |                                                                                                               |

|                                                                                                                                               |        |
|-----------------------------------------------------------------------------------------------------------------------------------------------|--------|
| place of residence:                                                                                                                           |        |
| of more than 4 hours before 11 am<br>Breakfast*                                                                                               | £7.21  |
| of more than 4 hours, including the period<br>between noon and 2.30 pm<br>Lunch*                                                              | £9.95  |
| of more than 4 hours ending after 7 pm<br>Evening Meal*                                                                                       | £15.20 |
| * Not claimable where refreshments have been provided at the meeting/event attended.                                                          |        |
| <u>Subsistence Allowance</u> in the case of an absence involving an absence overnight from the usual place of residence:                      |        |
| The actual cost of the most cost effective overnight accommodation and where meals are not included, subsistence allowance as detailed above. |        |

## SCHEDULE 2

### APPROVED DUTIES

1. The following shall be recognised as approved duties:
  - attendance at meetings of the Council, the Executive, a Committee, Sub-Committee, Panel, Working Party or Task and Finish Group of the Authority;
  - attendance at any other meeting which has both been authorised by the Authority (Executive, Scrutiny or Regulatory Committee) and to which representatives of more than one political group have been invited;
  - the attendance at a meeting of a Local Authority Association of which the Council is a Member;
  - carrying out any other duty connected with the Authority's functions approved by the Council (Executive);
  - the following conferences, approved for the purposes of Section 175 of the Local Government Act 1972:
    - i. Local Government Association
    - ii. Chartered Institute of Housing - Housing Conference
    - iii. Royal Town Planning Institute - Summer School
  - any other conference not mentioned above, or a training course or seminar shall be considered as an approved duty provided that such attendance has been authorised in advance by either the Executive or the Chief Executive.
  - attendance relating to site visits in respect of Development Management Committee business for members and substitutes of the Development Management Committee.

2. A member attending any conference, training course or seminar shall be entitled to receive the relevant allowance for travelling and subsistence.
3. The Chief Executive may, upon application to him/her by any Member of the Council, subject to consultation with the Leader of the Council for the time being, designate the attendance of that Member at any other meeting, training session, seminar or conference or other attendance not hereinbefore specifically referred to as an approved duty for the purpose of this scheme.

### SCHEDULE 3 – OUTSIDE BODIES

1. Attendance at any meeting of an outside body on which the Member is appointed to represent the Council.
2. Attendance at any conferences, seminars or training events, the attendance at which is approved by the Council, or the Executive or a Committee of either, or the Chief Executive.
3. Attendance at any meetings of a Local Government Association or any Joint or Liaison Committee for Members of Local Authorities.

## HERTFORDSHIRE GROWTH BOARD - INTEGRATED GOVERNANCE FRAMEWORK

Hertfordshire Growth Board (HGB) is currently operating to provide strategic co-ordination around growth and place leadership for the eleven councils and Local Enterprise Partnership (the LEP) in Hertfordshire. Governance is through an agreed Terms of Reference (TOR) (incorporated below) and a collaboration Memorandum of Understanding (MOU).

HGB is also in negotiation with HM Government to secure a Growth Deal which will require a formal governance model to provide accountability to government and good governance and transparency in the local management and use of any funds received under such an arrangement.

HGB comprises twelve local partners, namely the County Council, the Hertfordshire District and Borough councils<sup>1</sup> and the LEP. Its governance framework consists of the Board itself, with twelve members, supported by a Scrutiny Committee also of twelve members.

### 1. Hertfordshire Growth Board

#### Summary of Functions

- 1.1 HGB is established to ensure the effective coordination of strategic planning and delivery and to ensure that the objectives of a future Growth Deal for Hertfordshire are met.
- 1.2 HGB will also be responsible for the commissioning of projects funded by money provided through a Growth Deal, and for overall control of that programme of projects. For each individual project, HGB may act as lead, with budget responsibility; alternatively it may appoint as lead a constituent council, who will be responsible for the delivery of that budget, under the oversight of the HGB. This shall also apply to circumstances in which funding is provided to the HGB by the member Councils or by other parties, such as the LEP.
- 1.3 HGB shall also support the development of local planning policy that promotes (1) the UK Government's stated aim of net zero carbon by 2050, and (2) constituent Councils' 2030 targets, and contributes towards biodiversity gain whilst embracing the changes needed for a low carbon world.
- 1.4 The Councils agree to delegate the exercise of their functions to the HGB to the extent necessary to enable the HGB to pursue and achieve the purposes in paragraphs 4.1 and 4.2 of the Terms of Reference, and to undertake any actions necessary, incidental or ancillary to achieving those objectives. The Councils shall make the necessary changes to their respective schemes of delegation accordingly.
- 1.5 The HGB may further delegate to officers of the Councils.

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<sup>1</sup> Hertfordshire County Council, Borough of Broxbourne Council, Dacorum Borough Council, East Hertfordshire District Council, Hertsmere Borough Council, North Hertfordshire District Council, St Albans City and District Council, Stevenage Borough Council, Three Rivers District Council, Watford Borough Council, Welwyn Hatfield Borough Council.

- 1.6 The HGB will consider any reports and recommendations from the HGB Scrutiny Committee as appropriate.
- 1.7 The HGB shall develop its own Forward Plan.

### **Terms of Reference and Standing Orders**

- 1.8 The HGB's Terms of Reference and Standing Orders are set out in Appendix 1 and the accompanying Annex.

## **2. HGB Scrutiny Committee**

### **Summary of Functions**

- 2.1 The HGB Scrutiny Committee has delegated authority to exercise the following functions:
  - a. Advise the HGB in connection with the achievement of the functions set out at paragraph 1 above;
  - b. Prepare and submit reports and/or recommendations to the HGB; and
  - c. Carry out all other statutory scrutiny functions in relation to the HGB.

### **Terms of Reference and Standing Orders**

- 2.2 The HGB Scrutiny Committee's Terms of Reference and Standing Orders are set out in Appendix 2 and the accompanying Annex.

**Appendix 1****TERMS OF REFERENCE OF THE HERTFORDSHIRE GROWTH BOARD****1. Parties**

Hertfordshire County Council  
 Borough of Broxbourne Council  
 Dacorum Borough Council  
 East Hertfordshire District Council  
 Hertsmere Borough Council  
 North Hertfordshire District Council  
 St Albans City and District Council  
 Stevenage Borough Council  
 Three Rivers District Council  
 Watford Borough Council  
 Welwyn Hatfield Borough Council  
 Hertfordshire Local Enterprise Partnership (LEP)

**2. Status**

- 2.1 The Hertfordshire Growth Board (HGB) has been established by Hertfordshire County Council and the District and Borough Councils listed above. It is a joint committee of these Councils, established by the Councils under sections 101 and 102 of the Local Government Act 1972, section 9EB of the Local Government Act 2000 and pursuant to the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012.

**3. Membership**

- 3.1 Twelve members, comprising one elected member from each Council (anticipated to be the Leader/Directly Elected Mayor of each Council) with full voting rights, and a member nominated by the LEP (anticipated to be the Chair of the LEP) who is a co-opted non-voting member. The elected members shall be obliged to have due regard to the representations made by the LEP member.
- 3.2 Each constituent council may appoint a substitute from time to time. The substitute member shall have the same rights of speaking and voting at the meetings as the member for whom the substitution is made.
- 3.3 The HGB, with the agreement of its members, may co-opt other non-voting members to its membership where it is considered conducive to the effective consideration of any matter.
- 3.4 The HGB may appoint representatives to other outside bodies of which the HGB has membership.

## 4. Functions

### General Functions

- 4.1 The HGB has delegated authority to exercise the following functions:
- a. Exercising strategic direction, monitoring, delivery and co-ordination of current and future Growth Board strategy, programmes and implementation of any Growth Deal Project;
  - b. Effective place leadership, ensuring that interests relating to spatial planning, economic prosperity, infrastructure provision, health provision, sustainability and climate change mitigation are effectively taken into account, coordinated and incorporated in place-making, in order to safeguard and maintain Hertfordshire's unique quality of life and prosperity;
  - c. Securing strategic collaboration and delivery across the councils and with the LEP in accordance with the policy objectives of the partner organisations;
  - d. Acting as the place leadership body for Hertfordshire that may act as a single voice to Government (and other national and sub-national bodies) on issues relevant to its ambit;
  - e. Coordinating the prioritisation of Growth Board funding from devolved and other funding sources for infrastructure schemes, to ensure that decisions are made in one place and supported by all relevant partners and stakeholders;
  - f. Promoting and lobbying for Hertfordshire's interests and for funding;
  - g. Oversight, accountability for and prioritisation of the Growth Board Growth fund;
  - h. To bring together the work of the emerging South West Herts Joint Planning and North, East and Central Herts Joint Planning groups, ensure strategic infrastructure requirements are identified and fed into the Hertfordshire Infrastructure and Funding prospectus.
  - i. To maintain a current understanding of infrastructure needs through the Hertfordshire Infrastructure and Funding prospectus and other sources so key infrastructure priorities needed to support economic and housing growth can be determined
  - j. To maintain particular focus on the successful regeneration of Hertfordshire's New Towns, the health of Town Centres and development and delivery of new Garden Towns and Communities.

### Specific Functions

- 4.2 The HGB also has delegated authority to:
- a. Approve single position statements in relation to strategic Growth Deal issues;

- b. Approve projects, including the allocation of project funding, which fall within the ambit of a future Growth Deal agreement;
  - c. Approve the major priorities under the auspices of a future Growth Deal;
  - d. Approve plans and strategies necessary or incidental to the implementation of a Growth Deal; and
  - e. Consider recommendations from the HGB Scrutiny Committee.
- 4.3 For the avoidance of doubt, the following non-executive and executive functions of the constituent Councils (and where applicable, the LEP) are excluded from the delegations to the HGB:
- a. Statutory planning functions;<sup>2</sup>
  - b. Statutory housing functions;
  - c. Statutory functions relating to economic development;
  - d. Statutory highways and transport functions;
  - e. Matters incidental to the exercise of the above functions.

## **5. Professional and Administrative Support**

- 5.1 Hertfordshire County Council shall act as the accountable body for the HGB in respect of financial matters and its financial procedure rules will apply in this context. It will provide Section 151 and Monitoring Officer roles to the Committee in accordance with its internal procedures.
- 5.2 Hertfordshire County Council's Director of Finance (Section 151 Officer) will provide the HGB with quarterly financial reports for funding that has been allocated directly to Hertfordshire County Council as the Accountable Body. These reports will provide the HGB with an overview of the funds spent and funds committed against funds allocated.
- 5.3 For those programmes and funding streams where another local authority is the Accountable Body, the relevant Section 151 Officer will provide the financial and performance information to the County Council's Section 151 Officer, for integration into the quarterly reporting process.
- 5.4 Committee management and administrative support to the HGB will be provided by Hertfordshire County Council.
- 5.5 The lead role on projects shall be determined by the HGB, subject to the guiding principle that the lead council should normally be the Council primarily responsible for the service in question for their area. The procurement and other rules of the lead council will apply in respect of projects.

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<sup>2</sup> This includes acting as Local Planning Authority on strategic planning matters, applications, approval and designation, consultations/referendums revocation (or recommend revocation of) neighbourhood plans, Article 4 Directions and orders

## **6. Standing Orders**

- 6.1 The HGB will be governed by the Standing Orders set out in Annex A attached to these Terms of Reference.

## **7. Advisory Sub-Groups**

- 7.1 The HGB may establish Programme Boards/Advisory Sub-Groups to oversee specific work programmes or broader thematic areas as required. Programme Boards/Sub-Groups, reporting into the HGB, will be managed in accordance with separate terms of reference as agreed by the HGB.
- 7.2 The role, remit and membership of Programme Boards/Advisory Sub-Groups will be reviewed regularly to ensure they remain flexible to the demands of ongoing and new programmes of work.

## **8. Withdrawal**

- 8.1 The firm intention is that HGB will continue until the programme is completed. Recognising the very serious implications of withdrawal from the HGB for the delivery of any Growth Deal programme, if a Council decides to withdraw from its role within HGB, it commits to sharing this with HGB members at the earliest possible opportunity, and to entering into constructive discussions to avoid this happening or to reach a way forward.
- 8.2 In all cases:
- a. A minimum of six months' prior notice shall be given before withdrawal; and
  - b. Withdrawal shall take effect from the beginning of the financial year.

## **9. Costs**

- 9.1 The costs of running the HGB will be funded from the HGB Growth Fund in combination with officer time contributions from constituent councils.
- 9.2 Each Council makes a legally binding commitment that, should it withdraw from the HGB, it shall pay all additional costs (such as increased project costs) that fall to be met by the other partner Councils that are reasonably attributable to that withdrawal. This could include, for example, the costs that are locked in to projects that have already been committed to, or the costs of dissolving integrated officer and Member arrangements and re-establishing independent arrangements.

## **10. Dispute Resolution**

- 10.1 This section 10 governs disputes which may arise between the members and former members (including the LEP member, but not including any other co-opted member) in relation to these Terms of Reference or the Standing Orders of the HGB, or the decisions or operations of the HGB (a Dispute).

- 10.2 Each member as defined in paragraph 10.1 shall be entitled to refer a Dispute to the Heads of Paid Service of the member Councils and the Chief Executive of the LEP (together the Dispute Panel), who shall seek to agree a resolution. If the Dispute Panel is unable to resolve the matter within 1 month of it being referred to them, it shall agree any further dispute resolution procedure that it deems appropriate. This may include but is not limited to mediation via the Centre for Effective Dispute Resolution (CEDR).

## **Annex A to Appendix 1**

### **HERTFORDSHIRE GROWTH BOARD STANDING ORDERS**

#### **1. Membership**

- 1.1 The HGB will have a voting membership of eleven, each Council being entitled to appoint one voting member.
- 1.2 The HGB may agree to co-opt other non-voting members to its membership where it is considered conducive to the effective consideration of any matter.

#### **2. Alternate or Substitute Members**

- 2.1 Each Council will be entitled to appoint from time to time one named alternate or substitute member who may act in all aspects as a voting member of the HGB in the absence of the voting member appointed.
- 2.2 The LEP and any other co-opted members will be entitled to nominate an alternate or substitute member to act in the absence of their principal co-opted member.
- 2.3 Subject to the discretion of the Chair, the relevant member shall notify the HGB at least 1 hour in advance of the relevant meeting of the identity of their substitute.

#### **3. Term of Office**

- 3.1 The term of office of voting and alternate or substitute voting members shall end:
- a. if rescinded by the appointing Council; or
  - b. if the member ceases to be a member of the appointing Council.
- 3.2 The LEP member and any co-opted members may at any time ask the HGB to replace their nominated co-opted member and alternate or substitute member by way of further nomination.

#### **4. Appointment of Chair and Vice-Chair**

- 4.1 The HGB shall appoint a Chair and two Vice-Chairs at its first meeting. At the time of appointing the Vice-Chairs, the HGB shall decide which of them takes priority if the Chair is absent and both of them are present.

4.2 With effect from the Annual General Meeting 2023 the appointment of the Chair and Vice Chair shall be decided annually as the first substantive item of business at the AGM.

4.3 There shall be no term limits for Vice-Chairs.

4.4 The co-opted members of the HGB shall not act in the role of either the Chair or the Vice-Chair of the HGB.

## **5. Quorum**

5.1 The quorum for meetings of the HGB will be 9 voting members.

5.2 If there is no quorum at the published start time for the meeting, a period of ten minutes will be allowed, or longer, at the Chair's discretion. If there remains no quorum at the expiry of this period, the meeting will be declared null and void.

5.3 If there is no quorum at any stage during a meeting, the Chair will adjourn the meeting for a period of ten minutes, or longer, at their discretion. If there remains no quorum at the expiry of this period, the meeting will be closed and the remaining items will be declared null and void.

## **6. Member Conduct**

6.1 HGB members appointed by the eleven Councils shall be bound by the Code of Conduct of their nominating authority. The HGB member appointed by the LEP (and those nominated by other co-opted members) will be bound by the Code of Conduct of Hertfordshire County Council.

6.2 If a member persistently disregards the ruling of the Chair, or person presiding over the meeting, by behaving improperly or offensively or deliberately obstructs business, the Chair, or person presiding over the meeting, may move that the member be not heard further. If seconded, a vote will be taken without discussion.

6.3 If the member continues to behave improperly after such a motion is carried, the Chair, or person presiding over the meeting, may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, a vote will be taken without discussion.

## **7. Notice of and Summons to Meetings**

7.1 Notice will be given to the public of the time and place of any meeting of the HGB in accordance with the Access to Information rules of the Council providing HGB secretariat functions.

7.2 At least seven clear working days before a meeting, a copy of the agenda and associated papers will be sent to every member of the HGB. The agenda will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such details as are available.

## 8. Meeting Frequency

- 8.1 The HGB will meet on at least a quarterly basis, or as determined by the HGB, with one of those meetings acting as the annual meeting.
- 8.2 Extraordinary Meetings may be summoned by (i) the Chair, or (ii) any nine councils writing to the Chair to request one. The notice from the Chair or the letter from the nine councils shall state the business of the meeting, and no other business shall be considered.

## 9. Virtual Meetings

- 9.1 The following provisions shall apply to meetings which are scheduled during the period that **The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020**, or such other legislation as permits meetings to take place remotely, remain in force.
- 9.2 The HGB may hold any meeting remotely using Zoom, Microsoft Teams, or any other suitable platform, and may live-stream the meeting.
- 9.3 Where it elects to do so, notice of this shall be given to the public in advance, and the platform used shall enable the public to see and hear the proceedings. A link will be made available to enable members of the public whose questions have been selected in accordance with Standing Order 12 to address the HGB. Where a public questioner is unable to access the meeting, or cannot be heard by the Members during the time allocated for his or her question, the Chair shall have discretion to move on to deal with another question, or if the question is the last to be heard, to move on to other business.
- 9.4 Voting shall be managed by the Chair, by either (i) requiring members to vote using the applicable poll function, (ii) requiring members to vote orally in turn, or (iii) any other convenient method.
- 9.5 Where the public and press are excluded under Standing Order 16, members will be required to confirm that there are no other persons present with them who are not entitled to hear or see the proceedings.
- 9.6 The Quorum provisions at paragraph 5 shall apply equally to virtual meetings.

## 10. Voting

- 10.1 Before taking any decision, the local authority members of the HGB will have due regard to the advice and opinions expressed by the LEP member and other co-opted members.
- 10.2 HGB members commit to seek, where possible, to operate on the basis of consensus.
- 10.3 Should it not be possible in a specific instance to find a consensus, the issue shall stand deferred to a later meeting of the HGB. At the next meeting, a vote will be

again taken and, if a consensus is still not achievable, the decision will be made on the basis of a simple majority.

- 10.4 The Chair shall have a casting vote; however, the convention of the HGB is that the Chair shall not exercise this.

## **11. Reports from the HGB Scrutiny Committee**

- 11.1 The HGB will receive reports and recommendations from the HGB Scrutiny Committee as appropriate and the Chair of the HGB Scrutiny Committee, or a nominated representative on his or her behalf, will be entitled to attend meetings of the HGB to present them.

## **12. Questions by the Public and Public Speaking**

- 12.1 At the discretion of the Chair, members of the public may ask questions at meetings of the HGB. This standard protocol is to be observed by public speakers:
- (a) There shall be a maximum of six public questions in each meeting, subject to a time limit of 30 minutes. Questions will be addressed on a first-come-first-served basis with reference to when they were submitted to the HGB, save that questions which in the opinion of the Chair are vexatious shall not be addressed;
  - (b) Notice of the question should be submitted to the Chief Legal Officer of Hertfordshire County Council by 10am at least five working days before the meeting, stating to whom the question is to be put;
  - (c) Questions must be limited to a maximum of 300 words;
  - (d) Answers will be given in writing and will be published on the HGB website by 5pm on the day preceding the relevant meeting;
  - (e) With the Chair's permission, the questioner may ask a supplementary question relevant to the original question (or its answer). The questioner's supplementary question must not last longer than two minutes. The answer to the supplementary question may be: (i) an oral answer lasting no more than three minutes; or (ii) where the desired information is contained in a publication of the Council, a reference to that publication; or (iii) in writing (to be available within seven days); or (iv) a combination of the above;
  - (f) Questioners will not be permitted to raise the competence or performance of a member, officer or representative of any partner on the HGB, nor any matter involving exempt information (normally considered as 'confidential');
  - (g) Questioners cannot make any abusive or defamatory comments, or raise points which in the opinion of the Chair are vexatious;
  - (h) If any clarification of what the questioner has said is required, the Chair will have the discretion to allow other HGB members to ask questions;

- (i) The questioning member will not be permitted to participate in any subsequent discussion and will not be entitled to vote;
- (j) In the event that one of the questions considered by the Chair is duplicated by later questions, it may be necessary for a spokesperson to be nominated to put forward the question on behalf of other questioners. If a spokesperson cannot be nominated or agreed, the questioner of the first such question received will be entitled to put forward their question; and
- (k) Questions should relate to items that are on the agenda for discussion at the meeting in question. The Chair will have the discretion to allow questions to be asked on other issues.

### **13. Petitions**

13.1 At the discretion of the Chair, members of the public may submit and present petitions to the HGB. This standard protocol is to be observed by petitioners:

- (a) Petitions should include a clear statement of the petition organiser's concerns and what they would like the HGB to do;
- (b) Petitions must relate to something which is within the responsibility of the HGB, or over which it has influence;
- (c) Petitions must include the name and contact details of the petition organiser;
- (d) Petitions must include at least 500 signatures of people living or working in Hertfordshire. Petitions below this threshold will not be presented to the HGB, but HGB members will be notified of them as long as they contain at least 50 signatures;
- (e) Petitions must be submitted either (i) in hard copy, or (ii) via the HGB e-petition platform, in the format prescribed on the HGB portal, at least 10 clear working days before the date of the meeting. Petitions shall be administered by the Democratic Services Team of Hertfordshire County Council;
- (f) Subject to the discretion of the Chair, a maximum of two petitions will be considered at any one meeting;
- (g) Petition organisers will be permitted to present their petitions to the meeting and will be allowed to address the meeting for a maximum of three minutes;
- (h) Where more than one petition is received in time for a particular meeting and they are considered by the Chair as supporting the same outcome or being broadly similar in intent, it may be necessary for a spokesperson to be nominated and present the petitions. If a spokesperson cannot be nominated or agreed, the petition organiser of the first petition received will be entitled to present their petition;

- (i) Petitions will be rejected if the Chair considers them to be abusive or libellous, frivolous, vague or ambiguous, rude, offensive, defamatory, scurrilous or time-wasting or require the disclosure of exempt information (normally considered as 'confidential');
- (j) Petitions on the same subject matter will not be accepted within a six-month period, unless there has been a material change of circumstances. Whether there has been a material change in circumstances will be determined by the Chief Legal Officer of Hertfordshire County Council in consultation with the Chair (or Vice-Chair).

13.2 Any matters arising from petitions considered by the HGB Scrutiny Committee can be reported to the HGB, as per Standing Order 11.

#### **14. Participation at HGB Meetings by Other Members of Partner Councils or Other Representatives of Partner Bodies**

14.1 At the discretion of the Chair, other elected members of the Councils or the LEP or co-opted members may be entitled to speak and participate at meetings of the HGB.

#### **15. Minutes**

15.1 The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record.

15.2 The minutes will be accompanied by a list of agreed action points, which may be discussed in considering the minutes of the previous meeting should they not be specifically listed as items on the agenda for the meeting.

#### **16. Exclusion of the Public and Press**

16.1 Members of the public and press may be excluded from meetings in accordance with the Access to Information rules of legislation as applied by the administering authority with regard to the consideration of exempt or confidential information.

#### **17. Recording of Proceedings**

- 17.1 The recording in any format of meetings of the HGB is permitted, except:
- a. Where the Chair, or person presiding over the meeting, rules that filming is being undertaken in such a way that is disruptive or distracting to the good order and conduct of the meeting;
  - b. Where the public have been excluded from the meeting during the consideration of exempt or confidential information (see Standing Order 16).

**18. Disturbance by Public**

- 18.1 If a member of the public interrupts proceedings, the Chair, or person presiding over the meeting, will warn the person concerned. If that person continues to interrupt, the Chair will order his or her removal from the meeting room.
- 18.2 If there is a general disturbance in any part of the meeting room open to the public, the Chair, or person presiding over the meeting, may call for that part of the room to be cleared.
- 18.3 If there is a general disturbance making orderly business impossible, the Chair, or person presiding over the meeting, may adjourn the meeting for as long as he or she thinks is necessary.

**19. Interpretation of Standing Orders**

- 19.1 The ruling of the Chair of the HGB as to the application of these Standing Orders shall be final.

**20. Suspension of Standing Orders**

- 20.1 With the exception of Standing Orders 4, 5, 7.1, 8, 10 and 15, and as far as is lawful, any of these Standing Orders may be suspended by motion passed unanimously by those entitled to vote.

**Appendix 2****HERTFORDSHIRE GROWTH BOARD SCRUTINY COMMITTEE  
TERMS OF REFERENCE****1. Parties**

Hertfordshire County Council  
 Borough of Broxbourne Council  
 Dacorum Borough Council  
 East Hertfordshire District Council  
 Hertsmere Borough Council  
 North Hertfordshire District Council  
 St Albans City and District Council  
 Stevenage Borough Council  
 Three Rivers District Council  
 Watford Borough Council  
 Welwyn Hatfield Borough Council

**2. Status**

The Hertfordshire Growth Board Scrutiny Committee has been established by the Councils listed above. It is a joint advisory committee of these Councils, established under section 102(4) of the Local Government Act, 1972.

**3. Membership**

- 3.1 One elected member appointed by each of the member Councils and one member appointed by the LEP (total 12).

**4. Functions of the HGB Scrutiny Committee**

- 4.1 The HGB Scrutiny Committee is established to advise the HGB with regard to the latter's role in achieving the objectives in the HGB Terms of Reference.
- 4.2 The HGB Scrutiny Committee will act as a forum for discussion with a wider range of members and stakeholders across the Hertfordshire area, so that the HGB benefits from a wider range of expertise in making its decisions.
- 4.3 To this end, the HGB Scrutiny Committee may receive and comment on ("pre-scrutinise") reports to the HGB, may offer advice to the HGB on the discharge of its functions and may review its work.
- 4.4 The HGB Scrutiny Committee shall develop its own Forward Plan and may submit reports or recommendations to the HGB for consideration, as appropriate.

**5. Professional and Administrative Support**

- 5.1 Committee management and administrative support to the HGB Scrutiny Committee will be provided by Hertfordshire County Council.

5.2 Other professional support will be provided to the HGB Scrutiny Committee on an ad hoc basis as agreed between the Councils.

## **6. Standing Orders**

The HGB Scrutiny Committee will be governed by the Standing Orders set out in Annex A attached to these Terms of Reference.

## **7. Costs**

The costs of running the HGB Scrutiny Committee will be funded from the HGB Growth Fund.

## **Appendix 2 – Annex A**

### **HERTFORDSHIRE GROWTH BOARD SCRUTINY COMMITTEE STANDING ORDERS**

#### **1. Membership**

1.1 The HGB Scrutiny Committee will have a membership of 12, with each Council and the LEP being entitled to appoint one member. Members must not be executive members of their appointing authority.

#### **2. Alternate or Substitute Members**

2.1 Each Council will be entitled to appoint one named alternate or substitute member who may act in all aspects as a voting member of the HGB in the absence of the voting member appointed.

2.2 Subject to the discretion of the Chair, the relevant member shall notify the HGB at least 5 working days in advance of the relevant meeting of the identity of their substitute.

#### **3. Term of Office**

3.1 The term of office of members from the Councils shall end:

- a. if rescinded by the appointing Council; or
- b. if the member ceases to be a member of the appointing Council.

#### **4. Appointment of Chair and Vice-Chair**

4.1 The HGB Scrutiny Committee will appoint a Chair and Vice-Chair at its first meeting.

4.2 The appointment of the Chair described in 4.1 shall be for a term up to the first meeting of the HGB Scrutiny Committee that follows both the 2021 local elections and the 2021 Annual Meetings of the constituent Councils (the Post-Election Meeting). At the Post-Election Meeting, the HGB Scrutiny Committee may either re-appoint the same member as Chair, or appoint a new Chair for a term of two years.

Save in the above case, the Chair shall serve a single consecutive term of two years.

4.3 There shall be no term limits for Vice-Chairs.

4.4 Where there are three or more candidates for appointment and there is, after balloting, no candidate with a clear majority, meaning in this case the votes of more than 50% of members present and voting, the candidate with the least number of votes will withdraw and there will be a fresh ballot of remaining candidates; and so on until a candidate has that majority.

## **5. Quorum**

5.1 The quorum for meetings of the HGB Scrutiny Committee will be 7 members.

5.2 If there is no quorum at the published start time for the meeting, a period of ten minutes will be allowed, or longer, at the Chair's discretion. If there remains no quorum at the expiry of this period, the meeting will be declared null and void.

5.3 If there is no quorum at any stage during a meeting, the person presiding over the meeting will adjourn for a period of ten minutes, or longer, at their discretion. If there remains no quorum at the expiry of this period, the meeting will be closed and the remaining items will be declared null and void.

## **6. Member Conduct**

6.1 HGB Scrutiny Committee members appointed by the Councils shall be bound by the Code of Conduct of their nominating authority.

6.2 If a member persistently disregards the ruling of the Chair, or person presiding over the meeting, by behaving improperly or offensively or deliberately obstructs business, the Chair, or person presiding over the meeting, may move that the member be not heard further. If seconded, a vote will be taken without discussion.

6.3 If the member continues to behave improperly after such a motion is carried, the Chair, or person presiding over the meeting, may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, a vote will be taken without discussion.

## **7. Notice of and Summons to Meetings**

7.1 Notice will be given to the public of the time and place of any meeting of the HGB Scrutiny Committee in accordance with the Access to Information rules of Hertfordshire County Council.

7.2 At least five clear working days before a meeting, a copy of the agenda and associated papers will be sent to every member of the HGB Scrutiny Committee. The agenda will give the date, time and place of each meeting; specify the business to be transacted and will be accompanied by such details as are available.

## 8. Meeting Frequency

- 8.1 The HGB Scrutiny Committee may set its own timetable for meetings, normally on a date preceding meetings of the HGB in order to allow the HGB Scrutiny Committee to consider issues the HGB will be taking decisions on and advise accordingly.

## 9. Virtual Meetings

- 9.1 The following provisions shall apply to meetings which are scheduled during the period that **The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020**, or such other legislation as permits meetings to take place remotely, remain in force.
- 9.2 The HGB may hold any meeting remotely using Zoom, Microsoft Teams, or any other suitable platform, and may live-stream the meeting.
- 9.3 Where it elects to do so, notice of this shall be given to the public in advance, and the platform used shall enable the public to see and hear the proceedings. A link will be made available to enable members of the public whose questions have been selected in accordance with Standing Order 12 to address the HGB. Where a public questioner is unable to access the meeting, or cannot be heard by the Members during the time allocated for his or her question, the Chair shall have discretion to move on to deal with another question, or if the question is the last to be heard, to move on to other business.
- 9.4 Voting shall be managed by the Chair, by either (i) requiring members to vote using the applicable poll function, (ii) requiring members to vote orally in turn, or (iii) any other convenient method.
- 9.5 Where the public and press are excluded under Standing Order 16, members will be required to confirm that there are no other persons present with them who are not entitled to hear or see the proceedings.
- 9.6 The Quorum provisions at paragraph 5 shall apply equally to virtual meetings.

## 10. Voting

- 10.1 All HGB Scrutiny Committee members will be voting members.
- 10.2 Voting for meetings of the HGB Scrutiny Committee will be conducted on the basis of a simple majority. The Chair shall have a casting vote; the convention shall be that the Chair shall not exercise this.

## 11. Reports from the HGB Scrutiny Committee to the HGB

- 11.1 The Chair of the HGB Scrutiny Committee, or a nominated representative on his or her behalf, will be entitled to attend meetings of the HGB to present reports from the HGB Scrutiny Committee as appropriate.

## 12. Questions by the Public and Public speaking

12.1 At the discretion of the Chair, members of the public may ask questions at meetings of the HGB Scrutiny Committee. This standard protocol is to be observed by public speakers:

- (a) There shall be a maximum of six public questions in each meeting, subject to a time limit of 30 minutes. Questions will be addressed on a first-come-first-served basis with reference to when they were submitted to the HGB, save that questions which in the opinion of the Chair are vexatious shall not be addressed;
- (b) Notice of the question should be submitted the Chief Legal Officer of Hertfordshire County Council at the latest by 10am three working days before the meeting;
- (c) Questions must be limited to a maximum of 300 words;
- (d) Answers will be given in writing and will be circulated at the meeting;
- (e) With the Chair's permission, the questioner may ask a supplementary question relevant to the original question (or its answer). The questioner's supplementary question must not last longer than two minutes. The answer to the supplementary question may be: (i) an oral answer lasting no more than three minutes; or (ii) where the desired information is contained in a publication of the Council, a reference to that publication; or (iii) in writing (to be available within seven days); or (iv) a combination of the above;
- (f) Questioners will not be permitted to raise the competence or performance of a member of the HGB Scrutiny Committee or the HGB, nor any matter involving exempt information (normally considered as 'confidential');
- (g) Questioners cannot make any abusive or defamatory comments, or raise points which in the opinion of the Chair are vexatious;
- (h) If any clarification of what the questioner has said is required, the Chair will have the discretion to allow other HGB Scrutiny Committee members to ask questions;
- (i) The questioning member will not be permitted to participate in any subsequent discussion and will not be entitled to vote;
- (j) In the event that one of the questions considered by the Chair is duplicated by later questions, it may be necessary for a spokesperson to be nominated to put forward the question on behalf of other questioners. If a spokesperson cannot be nominated or agreed, the questioner of the first such question received will be entitled to put forward their question; and
- (k) Questions should relate to items that are on the agenda for discussion at the meeting in question. However, the Chair will have discretion to allow questions to be asked on other issues.

### 13. Petitions

- 13.1 At the discretion of the Chair, members of the public may submit and present petitions to the HGB Scrutiny Committee. This standard protocol is to be observed by petitioners:
- (a) Petitions should include a clear statement of the petition organiser's concerns and what they would like the HGB Scrutiny Committee to do;
  - (b) Petitions must relate to something which is within the responsibility of the HGB Scrutiny Committee, or over which it has influence;
  - (c) Petitions must include the name and contact details of the petition organiser;
  - (d) Petitions must include at least 500 signatures of people living or working in Hertfordshire. Petitions below this threshold will not be presented to the HGB Scrutiny Committee, but HGB Scrutiny Committee members will be notified of them as long as they contain at least 50 signatures;
  - (e) Petitions must be submitted either (i) in hard copy, or (ii) via the HGB e-petition platform, in the format prescribed on the HGB portal, at least 10 clear working days before the date of the meeting. Petitions shall be administered by the Democratic Services Team of Hertfordshire County Council;
  - (f) Subject to the discretion of the Chair, a maximum of two petitions will be considered at any one meeting;
  - (g) Petition organisers will be permitted to present their petitions to the meeting and will be allowed to address the meeting for a maximum of three minutes;
  - (h) Where more than one petition is received in time for a particular meeting and they are considered by the Chair as supporting the same outcome or being broadly similar in intent, it may be necessary for a spokesperson to be nominated and present the petitions. If a spokesperson cannot be nominated or agreed, the petition organiser of the first petition received will be entitled to present their petition;
  - (i) Petitions will be rejected if the Chair considers them to be abusive or libellous, frivolous, vague or ambiguous, rude, offensive, defamatory, scurrilous or time-wasting or require the disclosure of exempt information (normally considered as 'confidential');
  - (j) Petitions on the same subject matter will not be accepted within a six-month period, unless there has been a material change of circumstances. Whether there has been a material change in circumstances will be determined by the Chief Legal Officer of Hertfordshire County Council in consultation with the Chair (or Vice-Chair).
- 13.2 Any matters arising from petitions considered by the HGB Scrutiny Committee can be reported to the HGB as per Standing Order 10.

#### **14. Participation at HGB Scrutiny Committee Meetings by Other Members of Partner Councils or Other Representatives of Partner Bodies**

- 14.1 At the discretion of the Chair, other elected members of the Councils, or representatives from the LEP or other co-opted members, may be entitled to speak and participate at meetings of the HGB Scrutiny Committee.

#### **15. Minutes**

- 15.1 The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.
- 15.2 The minutes will be accompanied by a list of agreed action points, which may be discussed in considering the minutes of the previous meeting should they not be specifically listed as items on the agenda for the meeting.

#### **16. Exclusion of the Public and Press**

- 16.1 Members of the public and press may be excluded from meetings in accordance with the Access to Information legislation as applied by the administering authority with regard to the consideration of exempt or confidential information.

#### **17. Recording of Proceedings**

- 17.1 The recording in any format of meetings of the HGB Scrutiny Committee is permitted, except:
- a. Where the Chair, or person presiding over the meeting, rules that filming is being undertaken in such a way that is disruptive or distracting to the good order and conduct of the meeting; and/or
  - b. Where the public have been excluded from the meeting during the consideration of exempt or confidential information (see standing order 16).

#### **18. Disturbance by the Public**

- 18.1 If a member of the public interrupts proceedings, the Chair, or person presiding over the meeting, will warn the person concerned. If the individual continues to interrupt, the Chair will order his or her removal from the meeting room.
- 18.2 If there is a general disturbance in any part of the meeting room open to the public, the Chair, or person presiding over the meeting, may call for that part of the room to be cleared.
- 18.3 If there is a general disturbance making orderly business impossible, the Chair, or person presiding over the meeting, may adjourn the meeting for as long as he or she thinks is necessary.

#### **19. Interpretation of Standing Orders**

- 19.1 The ruling of the Chair as to the application of these Standing Orders shall be final.

**20. Suspension of Standing Orders**

- 20.1 With the exception of Standing Orders 5, 7.1, 10 and 15, and as far as is lawful, any of these Standing Orders may, as far as is lawful, be suspended by motion passed unanimously by those entitled to vote.

**Dated**

**2023**

**East Hertfordshire District Council**

**Epping Forest District Council**

**Harlow District Council**

**Essex County Council**

**Hertfordshire County Council**

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**Inter-Authority Agreement**

**for the Harlow and Gilston Garden Town Joint Committee**

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**THIS DEED** is made on

2023

**BETWEEN:**

- 1 East Hertfordshire District Council of Wallfields, Pegs Lane, Hertford SG13 8EQ (“**EHDC**”)
- 2 Epping Forest District Council of Civic Offices, 323 High Street, Epping CM16 4BZ (“**EFDC**”)
- 3 Harlow District Council of Civic Centre, The Water Gardens, College Square, Harlow CM20 1WG (“**HDC**”)
- 4 Essex County Council of County Hall, Market Road, Chelmsford CM1 1QH (“**ECC**”); and
- 5 Hertfordshire County Council of County Hall, Pegs Lane, Hertford SG13 8DQ (“**HCC**”),

each a “**Partner Authority**” and together the “**Partner Authorities**”.

**BACKGROUND**

- A. The Partner Authorities are local authorities for the purposes of the Local Government Act 1972 and best value authorities for the purposes of the Local Government Act 1999.
- B. Under sections 101(5) and 102(1) of the Local Government Act 1972 and Regulations 10 and 11 of The Local Authorities (Arrangements for the Discharge of Functions) England Regulations 2012, local authorities may arrange for the discharge of their functions by a Joint Committee comprising members of their authorities.
- C. All of the Partner Authorities have introduced Executive Arrangements under section 9EA of the Local Government Act 2000.
- D. Each of the Partner Authorities has agreed to establish a Joint Committee for the purposes of section 101 of the Local Government Act 1972 to be known as the Joint Committee for the Harlow and Gilston Garden Town (the “**Joint Committee**”) to co-ordinate and facilitate the delivery of 16,000 homes in the HGGT by 2033, and 7,000 homes in the years after that along with associated infrastructure.
- E. Epping Forest District Council will act as the Accountable Body.
- F. The Accountable Body will provide the Services and employ the HGGT Delivery Team on the terms set out in this Agreement and in accordance with Part VII of the Local Government Act 1972.
- G. This Agreement sets out the services that the Accountable Body will deliver to the Joint Committee and the respective roles, responsibilities and behaviours of the Partner Authorities in respect of associated matters related to the Joint Committee and the delivery of the Harlow and Gilston Garden Town.

- H. The Parties have also agreed the Joint Committee Terms of Reference which is incorporated into this Agreement.

## **1 AGREED TERMS**

- 1.1 In this Agreement, the definitions set out in Schedule 1 (Definitions) shall apply.
- 1.2 Clauses, schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement and any reference to this Agreement includes the schedules.
- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 A reference to a statute or a provision of a statute is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.7 Words in their singular shall include the plural and vice versa (unless the context otherwise requires).
- 1.8 A reference to **writing** or **written** excludes a reference to electronic communications, facsimile transmissions or comparable means of communication.
- 1.9 Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.10 References to clauses and schedules are to the clauses and schedules of this Agreement; references to paragraphs are to paragraphs of the relevant schedule.
- 1.11 Where there is any conflict or inconsistency between the provision of the agreement, such conflict or inconsistency shall be resolved according to the following order of priority:
- 1.11.1 the clauses of the Agreement;
- 1.11.2 Schedule 1 to this Agreement;
- 1.11.3 the remaining schedules to this Agreement.

## **2 Governance**

- 2.1 The Partner Authorities agree to adhere to the overarching governance structure set out in the Joint Committee Terms of Reference.
- 2.2 The Partner Authorities will work together acting in their capacities as Accountable Body and Partner Authorities.

- 2.3 The Partner Authorities agree that the following principles underpin their collaborative working: mutual co-operation; accountability; transparency and mutual benefits.
- 2.4 The Partner Authorities agree that they will work together with mutual trust, good faith and in an open, co-operative and collaborative manner and will respond in a timely manner
- 2.5 A structure chart depicting the governance arrangements applicable to the Joint Committee as at the date of this Agreement is included at Schedule 11. The parties acknowledge that the chart is included for information only. In the event of any conflict between the chart and any other provision of this Agreement, the other provision shall prevail.

### **3 Roles and Responsibilities of the Accountable Body**

- 3.1 The Accountable Body shall operate administrative functions to ensure the partnership operates legally and has the back office support services required. In this context it is not a political function. The political leadership comes from the five partners in the joint committee.
- 3.2 Subject to clause 3.3, in accordance with the terms of this Agreement the Accountable Body shall:
- 3.2.1 be the employing authority of the HGGT Director and HGGT Delivery Team on behalf of the Partner Authorities, who will be employed on the Accountable Body's terms and conditions of employment and subject to the employment policies of the Accountable Body;
- 3.2.2 ensure that line management is provided to the HGGT Director and the HGGT Delivery Team in consultation with the Chair, where necessary, in order to ensure that the HGGT Director and Delivery Team are effectively performing their roles;
- 3.2.3 establish and maintain a financial system to hold and account for all Project Funding and Recoverable Cost Funding received and disbursed on behalf of the Joint Committee;
- 3.2.4 receive the Project Funding and Recoverable Cost Funding on behalf of the Joint Committee and be responsible for its proper administration;
- 3.2.5 comply with all instructions of the Joint Committee and any sub-committee except where the instruction is:
- (i) inconsistent with the principles of probity or sound financial practice;
  - (ii) in breach of applicable funding terms
  - (iii) inconsistent with public law principles;
  - (iv) against the public interest
  - (v) likely to bring the Accountable Body or the Joint Committee into disrepute; or

- (vi) illegal;
- 3.2.6 ensure, through the S151 Officer, that Project Funding and Recoverable Cost Funding is used appropriately in accordance with the law, good financial management and any applicable grant conditions;
- 3.2.7 ensure the decisions and activities of the Joint Committee conform with legal requirements;
- 3.2.8 ensure that the Accountable Body's decisions conform with legal requirements;
- 3.2.9 issue offer letters and enter into agreements for Recoverable Cost Funding with the Partner Authorities as authorised by the Joint Committee;
- 3.2.10 provide the Services;
- 3.2.11 provide the necessary data and other information in timely manner to enable the HGGT Director to monitor the progress of scheme delivery and spend of Project Funding;
- 3.2.12 ensure all required information on expenditure, activities, outputs and outcomes are properly recorded and provided in due time for reporting to the Joint Committee upon the Joint Committee's request;
- 3.2.13 only spend the Project Funding and Recoverable Cost Funding on the Services, the Recoverable Costs, and any other costs or expenditure agreed by the Joint Committee;
- 3.2.14 obtain and keep in place sufficient insurance cover in respect of its liabilities under this Agreement and supply to the Joint Committee, on request, evidence that insurance cover or self-insuring arrangements are in place;
- 3.2.15 unless directed otherwise by the Joint Committee, maintain ownership of the Assets and use them only for the purposes of the Joint Committee and any sub-committee; and
- 3.2.16 unless directed otherwise by the Joint Committee, administer the Contracts and manage them only for the purposes of the Joint Committee.
- 3.3 The Accountable Body shall not have responsibility for the RIF pursuant to this Agreement. The parties acknowledge that the accountable body for the RIF shall be decided by the Partner Authorities pursuant to clause 4.6.5.
- 3.4 In addition to acting as Accountable Body, EFDC (or any successor Partner Authority) shall ensure that where it has a role as recipient of Project Sponsor Funding, there is a clear separation of such functions from its role as Accountable Body and all decisions to release Project Funding shall remain subject to the Joint Committee's approval.
- 3.5 The Accountable Body shall provide the Services or procure that they are provided:

- 3.5.1 with all reasonable skill, care and attention in accordance with the best industry practice within the timescales appropriate to the service in question;
  - 3.5.2 in accordance with the Assurance Framework and the terms of the Joint Committee Terms of Reference;
  - 3.5.3 in accordance with relevant accounting standards including but not limited to guidance from the Chartered Institute of Public Finance and Accountancy and GAAP (generally accepted accounting principles);
  - 3.5.4 in all respects in accordance with the Accountable Body and Joint Committee's policies; and
  - 3.5.5 in accordance with all applicable Law.
- 3.6 In the event that the Accountable Body is unable or unwilling to deliver the Services, the Accountable Body must provide the other Partner Authorities with at least twelve (12) months' notice (or such shorter period as the parties may agree) of its intention to cease to act as Accountable Body. The Accountable Body reserves the right to transfer the Accountable Body role and responsibilities under this Agreement to a different Partner Authority as agreed with the other Partner Authorities by providing the other Partner Authorities with written notice of such change. The new Accountable Body shall assume all responsibilities and obligations relating to this Agreement from the effective date of transfer and the Partner Authorities shall co-operate fully with the new Accountable Body to ensure a seamless transition. The retiring Accountable Body shall take all steps necessary to transfer to the new Accountable Body any Assets and Staff, and to novate any Contracts.

#### **4 Roles and Responsibilities of the Partner Authorities**

- 4.1 Each Partner Authority shall comply with the terms and conditions set out in this Agreement, including this clause 4, and the Joint Committee Terms of Reference.
- 4.2 The Partner Authorities shall co-operate to achieve the Garden Town Purpose.
- 4.3 The Partner Authorities shall ensure that an executive officer is appointed to and participates as a member of the Executive Officer Group in accordance with paragraph 7 of the Joint Committee Terms of Reference.
- 4.4 The Partner Authorities shall provide a Lead Officer(s).
- 4.5 The CEOs of the Partner Authorities, or the CEOs nominated deputies, will meet at least quarterly and in advance of the formal joint committee meetings to consider the papers and provide strategic advice.
- 4.6 The Partner Authorities shall work to achieve the RIF Purpose, including:
  - 4.6.1 co-operating to enable HCC to draw down the HIG Funding in accordance with the terms of the Grant Determination Agreement;
  - 4.6.2 committing to maximising recovery of the HIG Funding for inclusion in the RIF;
  - 4.6.3 maximising the contributions from the strategic sites to put into the RIF;

- 4.6.4 using reasonable endeavours to secure additional grant or revenue funding for the delivery of the STC Network and, where appropriate, to allocate such funding to the RIF, subject always to any terms and conditions attaching to such funding;
  - 4.6.5 cooperating to develop, agree, and implement the RIF strategy described in paragraph 6.4 of the Memorandum of Understanding at which point the parties agree that the Memorandum of Understanding shall terminate;
  - 4.6.6 paying the Accountable Body the Partner Authority Contribution;
  - 4.6.7 making appropriate in-kind resources available as required and agreed by the Joint Committee.
- 4.7 The Partner Authorities shall (so far as the law permits) comply with the terms of the Exit Schedule.
- 4.8 For the avoidance of doubt, nothing in this Agreement shall fetter the statutory rights, powers, duties and obligations of the Partner Authorities in the exercise of their role as a local authority.

## **5 HGGT Delivery Team**

- 5.1 The Accountable Body shall employ the HGGT Delivery Team and the HGGT Director and they will be subject to the employment policies of the Accountable Body.
- 5.2 The Accountable Body will ensure that line management is provided to the HGGT Delivery Team and the HGGT Director in consultation with the Chair of the Joint Committee, where necessary, in order to ensure that the HGGT Delivery Team is effectively performing its role.
- 5.3 The HGGT Delivery Team shall have its primary place of work at HDC. HDC shall provide office space, access, and employee welfare facilities to the HGGT Delivery Team which is sufficient to allow the HGGT Delivery Team to support the delivery of the Garden Town Purpose and the RIF Purpose.
- 5.4 The role of the HGGT Delivery Team is to:
- 5.4.1 support the Joint Committee to carry out the programme of coordinating and enabling work required for the delivery of the Joint Committee's primary aims as detailed in paragraph 4.5 of the Joint Committee Terms of Reference;
  - 5.4.2 support the allocation of Project Funding;
  - 5.4.3 manage the expenditure and recovery of Project Funding;
  - 5.4.4 monitor and report on delivery against the HGGT Budget;
  - 5.4.5 report to the Joint Committee about issues affecting the development of the HGGT.
- 5.5 The role of the HGGT Director shall be to:

- 5.5.1 lead the HGGT Partnership and deliver the objectives of the HGGT Joint Committee including leadership and management of the HGGT Delivery Team;
- 5.5.2 be the budget holder of the Recoverable Cost Funding and Project Funding in accordance with the Accountable Body's constitution and financial regulations;
- 5.5.3 prepare and maintain a three (3) year Business Plan to the Joint Committee (a Proposed Budget) setting out:
- (i) the proposed level of Partner Authority Contributions;
  - (ii) the Recoverable Cost Funding required and how the Recoverable Cost Funding is to be allocated with respect to those three (3) Financial Years;
  - (iii) the allocation of project funding; and
  - (iv) The annual programme of enabling work to be carried out by the HGGT Delivery Team with objective for years 2 & 3.
- 5.5.4 prepare the Proposed Budget; and
- 5.5.5 chair meetings of the HGGT Delivery Team and the Executive Officer Group.

## **6 Not Used**

## **7 Charges and Payment**

- 7.1 The Partner Authorities agree that the Partner Authority Contribution shall be set at a level sufficient to cover the Recoverable Costs.
- 7.2 The Charges for the Services provided by the Accountable Body shall be funded by the Recoverable Cost Funding and shall be calculated in accordance with Schedule 4 (Charges).
- 7.3 Before the start of each Financial Year, the HGGT Director in consultation with the Partner Authorities will bring a report to the Joint Committee with proposals for the three (3) year business plan (a "**Proposed Budget**") as set out in clause 5.5.3.
- 7.4 Subject to approval by Joint Committee, the Accountable Body shall be entitled as part of the annual budget setting process by written notice, to vary Charges upwards or downwards, to reflect any change in its underlying cost base in the provision of the Services (or changes in the underlying cost base and margin of the Accountable Body). In making any such changes, Accountable Body shall act reasonably at all times.
- 7.5 The Accountable Body shall pay any Recoverable Costs from the cost centre held for such purpose within the Accountable Body's accounting records.

## **8 Change Request**

- 8.1 If the outcome of a review pursuant to clause 6 of the Joint Committee Terms of Reference results in a change to the nature, volume or execution of all or any of the

Services, the Partner Authorities shall submit details of the requested change in writing to the Accountable Body. Following the submission or receipt of a change request, the Accountable Body shall, within a reasonable time, provide a written estimate to the Partner Authorities of:

- 8.1.1 the time required to implement the change;
  - 8.1.2 any proposed variations to the Charges arising from the requested change;
  - 8.1.3 any other impact of the requested change on the Services or the terms of this Agreement.
- 8.2 The Accountable Body shall consider the request in good faith in accordance with its responsibilities under clause 3 but the Accountable Body shall (acting reasonably) be under no obligation to accept any requested change to the Services. The Accountable Body shall give its formal response within two (2) weeks of receipt of the change request. If the Partner Authorities cannot agree on the appropriate variation to the fees within four (4) weeks of agreeing the requested change, the matter shall be referred to the Chair of the Joint Committee and a nominated officer of the Accountable Body who shall attempt in good faith to resolve it.
- 8.3 The Accountable Body may, from time to time and without prior notice, change the Services in order to comply with any applicable regulatory or statutory requirements. Where practicable, it will give not less than three (3) months' written notice of any change (including any required variation to the Charges), but in any event, it will give notice of any such change within one (1) month of it taking effect.

## **9 Confidentiality and Freedom of Information**

- 9.1 The Partner Authorities recognise that they are subject to legal duties which may require the release of information under the FOIA or any other applicable legislation governing access to information, and that they may be under an obligation to provide information to third parties on request. Such information may include matters relating to or arising out of this Agreement.
- 9.2 Each Partner Authority will assist the other to enable it to comply with its obligations and will ensure that any third parties acting on its behalf will also comply with the requirements of this clause 9. In the event that any Partner Authority receives a request for information under the FOIA or any other applicable legislation governing access to information and subject of such request or otherwise, the relevant Partner Authority will respond to any such request for assistance at its own cost and promptly, and in any event within five (5) days.
- 9.3 The Accountable Body, when in receipt of an FOIA addressed to or concerning the Joint Committee or Accountable Body, will consider the representations made by the relevant Partner Authorities. The Partner Authorities understand and acknowledge that, in such a case and as the recipient of the FOIA, the Accountable Body shall have the final determination of the response and disclosure required and the Partner Authorities agree to abide by that determination.

## **10 Intellectual Property**

- 10.1 All Intellectual Property created by the Joint Committee, or by any of the Partner Authorities for the purposes of the Joint Committee or this Agreement, shall vest in

the Accountable Body on creation. The Accountable Body shall grant to the Partner Authorities a perpetual, royalty-free, non-exclusive licence to use the Joint Committee Intellectual Property.

- 10.2 The Accountable Body shall grant, subject to the remainder of this clause 10 and for so long as the Accountable Body remains the Accountable Body, a non-exclusive licence to use such Accountable Body Intellectual Property as is necessary to allow the Joint Committee to enjoy the benefit of the Services provided by the Accountable Body. The Joint Committee and the Partner Authorities shall at all times maintain standards of quality equivalent to those used by the Accountable Body in relation to its Intellectual Property and shall comply with such reasonable instructions as may be notified to it by the Accountable Body in connection with the use of such Intellectual Property from time to time.
- 10.3 The Partner Authorities acknowledge that where the Accountable Body does not own the Intellectual Property, use by the Partner Authorities of rights in the Accountable Body's Intellectual Property is conditional on the Accountable Body obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle the Accountable Body to license such rights to the Partner Authorities.
- 10.4 Where the circumstances set out in clause 10.3 arise, the Accountable Body agrees to use its reasonable endeavours to enable the Partner Authorities to use the Intellectual Property required to enable them to enjoy the benefit of the Services.

## **11 Termination**

- 11.1 This Agreement shall terminate on the date that the Joint Committee Terms of Reference terminate or expire.
- 11.2 This Agreement shall terminate on the date that the Partner Authority that is acting as Accountable Body ceases to be the Accountable Body pursuant to clause 3.6 for any reason, unless another Partner Authority is appointed to undertake the responsibilities of the Accountable Body.
- 11.3 In the event that a Partner Authority leaves the Joint Committee pursuant to paragraph 5.3 of the Joint Committee Terms of Reference, that Partner Authority shall be deemed also to withdraw simultaneously from this Agreement. In such circumstances the withdrawing Partner Authority shall (to the extent that the law permits) comply with the Exit Provisions.

## **12 Consequences of Termination**

- 12.1 Upon the termination of this Agreement or part thereof for any reason, the provisions of Schedule 6 (Consequences of Termination) shall apply.

## **13 Force Majeure**

- 13.1 In the event that any Partner Authority is affected by any circumstances beyond its reasonable control ("an event of Force Majeure") the affected Partner Authority shall promptly notify the other Partner Authorities of the nature and extent of the circumstances in question.
- 13.2 Notwithstanding any other provision of this Agreement, no Partner Authority shall be deemed to be in breach of this Agreement or otherwise liable to the other for any delay in performance or the non-performance of any of its obligations under this

Agreement to the extent that the delay or non-performance is due to the occurrence of an event of Force Majeure of which it has notified the other Partner Authorities, and the time for performance of that obligation shall be extended accordingly.

#### **14 Entire Agreement, Inter-Authority Agreement Review and Variations**

- 14.1 This Agreement (including the documents and Schedules referred to in this Agreement) represents the entire agreement between the Partner Authorities in relation to the subject matter hereof and supersedes and replaces all prior agreements, communications, representations, warranties and undertakings between the Parties, whether oral or written.
- 14.2 The Partner Authorities agree that they shall together review this Agreement from time to time and shall agree such amendments to this Agreement as are necessary to reflect any changes in the circumstances of the Partner Authorities or any changes in the levels of benefit derived from this Agreement by the Partner Authorities. This review shall take place:
- 14.2.1 at least every five (5) years;
- 14.2.2 whenever a Party Authority gives notice of withdrawal under Schedule 5; or
- 14.2.3 at such times as a Partner Authority may request on reasonable notice.
- 14.3 Subject to clause 14.4, amendments or variations to this Agreement shall only be effective if, and to the extent that, they are endorsed by the Joint Committee and approved by all Partner Authorities. Any amendments or variations shall be recorded in writing and signed by authorised representatives of each Partner Authority.
- 14.4 Variations in respect of Charges, including but not limited to the annual budget setting process, shall be recorded in writing and signed by authorised representatives of each Partner Authority.

#### **15 Assignment**

- 15.1 None of the Accountable Body or the Partner Authorities shall be entitled to assign or transfer any of its rights or obligations arising under this Agreement without the prior written consent of all other Partner Authorities.

#### **16 Notices**

- 16.1 A notice given to a party under or in connection with this Agreement shall be in writing and:
- 16.1.1 shall be delivered by hand, pre-paid first-class post, recorded delivery or special delivery in each case sent for the attention of the person, and to the postal address given in clause 16.2 (or such other address or person as the relevant party may notify to the other party); or
- 16.1.2 shall be sent by electronic mail to the email address given in clause 16.2 (or such other address or person as the relevant party may notify to the other party).
- 16.2 The addresses for service of notices are:

Accountable Body

Address: Civic Offices, High Street, Epping, Essex CM16 4BZ

Email: [asmall@eppingforestdc.gov.uk](mailto:asmall@eppingforestdc.gov.uk)

For the attention of: Andrew Small

Partner Authorities

(1) Address: East Hertfordshire District Council of Wallfields, Pegs Lane, Hertford SG13 8EQ

Email: [sara.saunders@eastherts.gov.uk](mailto:sara.saunders@eastherts.gov.uk)

For the attention of: Sara Saunders - Head of Planning

(2) Address: Harlow District Council of Civic Centre, The Water Gardens, College Square, Harlow CM20 1WG

Email: [simon.hill@harlow.gov.uk](mailto:simon.hill@harlow.gov.uk)

For the attention of: Simon Hill

(3) Address: Essex County Council of County Hall, Market Road, Chelmsford CM1 1QH

Email: [mark.doran@essex.gov.uk](mailto:mark.doran@essex.gov.uk)

For the attention of: Mark Doran, Director – Sustainable Growth

(4) Address: Hertfordshire County Council of County Hall, Pegs Lane, Hertford SG13 8DQ

Email: [quentin.baker@hertfordshire.gov.uk](mailto:quentin.baker@hertfordshire.gov.uk)

For the attention of: Quentin Baker, Monitoring Officer

16.3 Delivery of a notice is deemed to have taken place:

16.3.1 if delivered by hand, at the time the notice is left at the address or if sent by post on the second Business Day after posting, unless such deemed receipt would occur outside business hours, in which case deemed receipt will occur at 9.00 am on the next working day;

16.3.2 if sent by electronic mail, at the time actually received provided that any notice sent by electronic mail outside business hours shall be deemed to have been given at 9:00 am on the next working day.

For the purposes of this clause 16.3, business hours means 9.00 am to 5.30 pm Monday to Friday on each day that is not a public holiday.

16.4 This clause 16 does not apply to the service of any proceedings or other documents in any legal action.

## **17 Data Protection**

- 17.1 The Parties shall comply with their obligations under the Data Protection Legislation and the Data Sharing Schedule in the performance of their obligations under this Agreement.

## **18 Disputes**

- 18.1 If a dispute arises out of or in connection with this Agreement or the performance validity or enforcement of if (a “Dispute”) then the Partner Authorities shall follow the procedure set out in this clause:

**18.1.1** either Partner Authority shall give to the other written notice of the Dispute, setting out its nature and full particulars (Dispute Notice), together with relevant supporting documents. On service of the Dispute Notice, the Heads of Finance of the Partner Authorities shall attempt in good faith to resolve the Dispute;

**18.1.2** if the Heads of Finance of the Partner Authorities are for any reason unable to resolve the Dispute within fourteen (14) days of service of the Dispute Notice, the Dispute shall be referred to the Directors of Finance of the Partner Authorities who shall attempt in good faith to resolve it; and

**18.1.3** if the Directors of Finance of the Partner Authorities are for any reason unable to resolve the Dispute within fourteen (14) days of it being referred to them, the Dispute shall be referred to the Chief Executives of the Partner Authorities; and

**18.1.4** if the Chief Executives of the Partner Authorities are for any reason unable to resolve the Dispute within fourteen (14) days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than twenty eight (28) days after the date of the ADR notice.

- 18.2** The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under clause 20.2 which shall apply at all times.

- 18.3** If the Dispute is not resolved within fourteen (14) days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of fourteen (14) days, or the mediation terminates before the expiration of the said period of fourteen (14) days, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 20.2.

## **19 General**

- 19.1 A waiver of any right or remedy by a Partner Authority under this Agreement shall only be effective if given in writing and shall not be considered to be a waiver of any subsequent breach of the same or any other provision.

19.2 In the event that any provision of this Agreement is held by a competent authority to be invalid or unenforceable in whole or in part, the validity of the remainder of the provision in question and the remaining provisions shall not be affected.

19.3 Third parties shall not have any rights whatsoever to take any action under or in relation to this Agreement and, accordingly, all rights that are or may be conferred on such third parties pursuant to the Contracts (Rights of Third Parties) Act 1999 are hereby expressly excluded.

## **20 Governing law and Jurisdiction**

20.1 This Agreement shall be governed by and construed in accordance with English law.

20.2 Each party irrevocably agrees to submit to the exclusive jurisdiction of the courts of England and Wales over any claim or matter arising under or in connection with this Agreement (including any non-contractual dispute or claim).

## **21 Counterparts**

21.1 This Agreement may be executed in any number of counterparts and by the several parties to it on separate counterparts, each of which when so executed shall constitute an original of this Agreement, but all counterparts together shall constitute one and the same instrument.

This agreement has been entered into as a deed on the date stated at the beginning of it.

The common seal of  
EAST HERTFORDSHIRE DISTRICT COUNCIL  
Was affixed in the presence of:

Authorised signatory

The common seal of  
EPPING FOREST DISTRICT COUNCIL  
was affixed in the presence of:



Attesting Officer

The common seal of  
HARLOW DISTRICT COUNCIL  
was affixed in the presence of:

Duly Authorised Officer

The common seal of  
ESSEX COUNTY AUTHORITY  
was affixed in the presence of:

Attesting Officer  
Date

The common seal of  
HERTFORDSHIRE COUNTY COUNCIL  
was affixed in the presence of:

Authorised Signatory

## SCHEDULE 1

### DEFINITIONS

In this Agreement the words and expressions set out below shall have the meanings set out below (unless the context requires otherwise):

**Accountable Body** means EFDC, or such other Partner Authority as may be appointed pursuant to this Agreement, which has responsibility under this Agreement for holding the Project Funding and the Recoverable Cost Funding and providing the Services including ensuring that expenditure is spent in accordance with all legal requirements.

**Agreement** means this agreement that sets out the services to be delivered by the Accountable Body and the respective roles, responsibilities and behaviours of the Partner Authorities.

**Assets** means any assets held by the Accountable Body on behalf of the Joint Committee from time to time, being at the date of this Agreement four (4) cargo bikes.

**Assurance Framework** means the Financial Regulations of the Accountable Body, which shall be applied to manage the Project Funding until such time as alternative arrangements shall be adopted and incorporated into this Agreement.

**Charges** means the charges (including Recoverable Costs) which become due and payable by the Partner Authorities to the Accountable Body in respect of the Services provided under this Agreement, as such charges are set out in Schedule 4 (Charges).

**Contracts** means any contracts entered into by the Accountable Body on behalf of the Joint Committee from time to time.

**Data Sharing Schedule** means the obligations of the Parties as set out in Schedule 8 (Data Sharing Schedule).

**Data Protection Legislation** means: (a) the GDPR, the LED and any applicable national implementing Laws as amended from time to time; (b) the DPA to the extent that it relates to processing of personal data and privacy; and (c) all applicable Law about the processing of personal data and privacy.

**DPA** means the Data Protection Act 2018;

**Executive Officer Group** means an officer group established by the Partner Authorities made up of one (1) senior officer from each Partner Authority and which is chaired by the HGGT Director.

**Exit Provisions** means the exit plan and provisions set out at Schedule 5 (Exit Provisions) which shall be used in the event of termination of this Agreement for any reason in whole or in part.

**Financial Year** means during the continuance of the Agreement any period commencing on 1 April and ending on the following 31 March.

**FOIA** means the Freedom of Information Act 2000, and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

**Garden Town Purpose** means providing the leadership required to deliver the spatial growth and infrastructure proposals set out in the Local Plans of HDC, EHDC and EFDC, supported by ECC and HCC to align and maximise the opportunities for new residents and the existing residents and communities in Harlow, Epping Forest and East Hertfordshire.

**GDPR** means the General Data Protection Regulations 2016, Regulation (EU) 2016/679 as implemented in UK law under the European Union (Withdrawal) Act 2018 and any United Kingdom Act or European Union Regulation recognised in UK law substantially replacing the same.

**HGGT** means the Harlow and Gilston Garden Town located to the north of London in the district council areas of Harlow, East Hertfordshire and Epping Forest and in the counties of Hertfordshire and Essex which will co-ordinate and enable new homes, modal shift and associated infrastructure in and around Harlow with four new strategic sites being Gilston, East Harlow, Latton Priory and Water Lane which shall be connected via the STC Network.

**HGGT Area** means the area of the HGGT as delineated in red on the map at Schedule 2 (HGGT Area).

**HGGT Budget** means the agreed budget for the Recoverable Cost Funding and the Project Funding once agreed by the Joint Committee.

**HGGT Delivery Team** means the employees employed by the Accountable Body on behalf of the Partner Authorities for the purposes of supporting the Joint Committee and carrying out the programme of enabling work required for the delivery of the objectives set out in this Agreement and which shall include the Independent Facilitator and the HGGT Director.

**HGGT Director** means an officer employed by the Accountable Body on behalf of the Partner Authorities for the purposes of leading the HGGT Partnership of 5 partner authorities and delivering the objectives of the HGGT Joint Committee including leadership and management of the HGGT Delivery Team and chairing the Executive Officer Group

**HIG Funding** means the funding made available or to be made available by Homes England to HCC under the terms of a Grant Determination Agreement dated 31 March 2021 for the purposes of application towards the expenditure of delivering or procuring the delivery of infrastructure works and dwellings in the HGGT.

**Independent Facilitator** means a person appointed by the Joint Committee in accordance with paragraph 10.4 of the Joint Committee Terms of Reference.

**Intellectual Property** means all patents, rights to inventions, copyright and related rights, database rights, rights in designs, trademarks, know-how, trade secrets and other similar or equivalent rights or forms of protection (whether registered or unregistered) and all applications (or rights to apply) for, and for renewals and extensions of such rights as may now or in the future exist anywhere in the world.

**Joint Committee** means the joint committee constituted through the Joint Committee Terms of Reference between the Partner Authorities.

**Joint Committee Intellectual Property** means any and all Intellectual Property created through the work of, or as directed by, the Joint Committee.

**Joint Committee Terms of Reference** means the terms of reference in relation to the HGGT agreed between the Partner Authorities and Joint Committee and set out in Schedule 10, which sets out the duties and obligations, roles and responsibilities of the Partner Authorities in relation to delivery of Joint Committee's objectives.

**Law** means any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which Accountable Body is bound to comply.

**LED** means Law Enforcement Directive (Directive (EU) 2016/680).

**Lead Officer** means an officer employed by each Partner Authority to work to progress the work of the HGGT.

**Memorandum of Understanding** means the memorandum of understanding between the Partner Authorities set out in Schedule 9 to this Agreement, signed by each of the Partner Authorities on different dates in February and March 2022. In interpreting the Memorandum of Understanding, the definitions set out in that Schedule shall apply.

**Partner Authority Contribution** in each Financial Year means a financial contribution which a Partner Authority has agreed to make to the Recoverable Cost Funding.

**Partner Authority** means each party or the parties (as the case may be) to this Agreement.

**Project Funding** means Developer Contributions and any other funding contributions which are to be used for the delivery of the HGGT schemes and work programme as agreed by the Joint Committee.

**Project Sponsor Funding** means a payment of Project Funding to a Partner Authority for the purposes of delivering an element of the HGGT.

**Proposed Budget** has the meaning given to it in clause 7.3.

**Recoverable Costs** means costs incurred by the Accountable Body in the provision of the Services which shall include:

- a) the cost of the Services, the cost of insurance, the cost of the HGGT Delivery Team, the cost of the HGGT Director, and such other funding as is required to cover the agreed programme of work; and
- b) third party costs incurred by the Accountable Body to which no value is added by the Accountable Body, including, but not limited to, any costs, fees, or charges paid pursuant to the Contracts.

**Recoverable Cost Funding** means the funding needed to cover the Recoverable Costs.

**RIF** means the rolling infrastructure fund which shall comprise, as a minimum, the HIG Repayment Funding and the Developer Contributions, principally for the purposes of forward funding and completing the STC Network, which shall be held on behalf of the Joint Committee by the accountable body appointed by the Partner Authorities pursuant to clause 3.3 and clause 4.6.5.

**RIF Purpose** means work to further develop the principles and processes set out in the Memorandum of Understanding at:

- a) Clause 2 (Establishment of the Rolling Infrastructure Fund)
- b) Clause 3 (Rolling Infrastructure Fund Governance)
- c) Clause 4 (Initial Projects – Forward Funding)
- d) Clause 5 (Initial Projects – Recovery of Contributions)
- e) Clause 6 (Subsequent Projects)
- f) Clause 7 (Fund Holders’ Obligations)
- g) Clause 9 (Review and Development of the RIF).

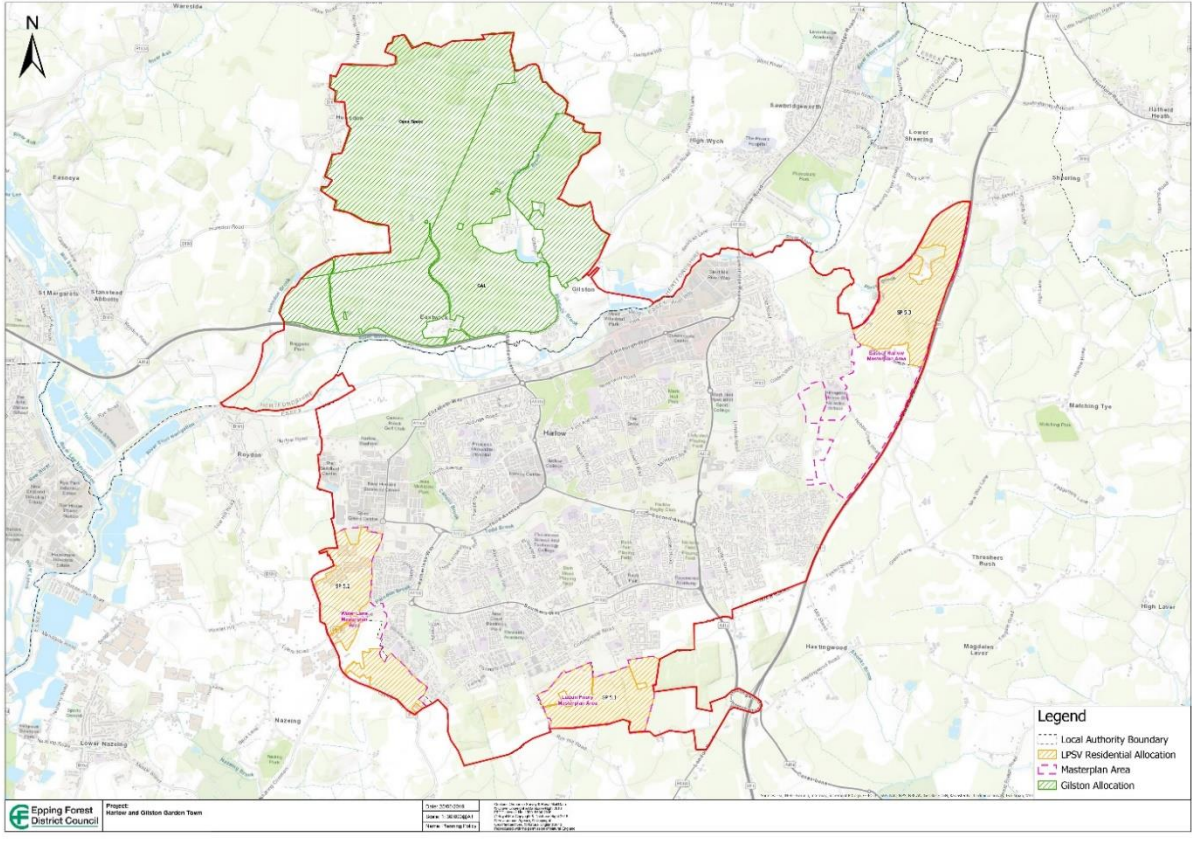
**S151 Officer** means the officer appointed by the Accountable Body for the proper administration of its financial affairs under s151 of the Local Government Act 1972.

**Services** means the services to be provided by the Accountable Body as set out in Schedule 3 (Services).

**STC Network** means the sustainable transport corridors and other specific highway improvements which will connect the four strategic sites forming the HGGT and support the delivery of sustainable residential development as detailed in the Adopted Local Plans of EHDC and HDC and the draft local plan of EFDC.

# SCHEDULE 2

## HGGT Area



## **SCHEDULE 3**

### **SERVICES**

Core on-going Services required to ensure that the Accountable Body can provide the required due diligence in providing financial and legal oversight to the Partnership

#### **Democratic Services**

Publishing Agendas and minutes

#### **Legal Services**

Support on all matters relating to contracting, report comment and supporting meetings of the Joint Committee as required including Joint Committee specific advice to the Accountable Body

#### **People Services**

Support on all HR matter relating to recruitment and management of the HGGT Delivery Team and the HGGT Director

Support for Learning & Development and retention of the HGGT Delivery Team and the HGGT Director

#### **Technology Services**

Core Service including annual licences for Microsoft, Oracle plus a data consumption allowance

Provision of Laptop, mobile phone (if required as agreed by HGGT Director) licences and set up of new users

Service support as part of Core Service

#### **Finance Services**

Budget Holder Support, including support for in-year forecasting and budget preparation  
Preparation of budget and forecast summaries to support reporting to the Board on a quarterly basis

Preparation of the annual accounts of the partnership and support the Audit of the Accounts

Financial advice to the Partnership; Review and comment on the Board papers; provide briefings for the Section 151 officer and the Accountable Body representative

Treasury Management

#### **Internal Audit**

Annual Audit of Governance and Funding arrangements of the Partnership

#### **External Audit**

Audit of the Partnership Accounts if required

#### **Insurance**

No specific insurance required but HGGT employees covered under Accountable Body arrangements

## **SCHEDULE 4**

### **ANNUAL CHARGES**

Costs based on typical on-going service requirements set out above

| <b>Service</b>                 | <b>Primary Role</b>                                                                      | <b>Cost</b>    | <b>Comments</b>                                                                             |
|--------------------------------|------------------------------------------------------------------------------------------|----------------|---------------------------------------------------------------------------------------------|
| <b>Democratic Services</b>     | Democratic Services Manager                                                              | £652           | Support for publishing Agendas & minutes and attending four (4) meetings in person per year |
| <b>Legal Services</b>          | Supervising Associate                                                                    | £1 538         | Support for four meetings per annum                                                         |
| <b>People Services</b>         | People Business Partner                                                                  | £954           | Support for quarterly meetings per annum                                                    |
| <b>Technology Services</b>     | Technology Services                                                                      | £1 361         | Excludes costs of licences                                                                  |
| <b>Finance Services</b>        | Finance Business Partner with oversight from Senior Finance Business Partner as required | £7 224         | Support for monthly meetings with HGGT Director and adhoc advice                            |
| <b>Internal Audit Services</b> | Senior Auditor                                                                           | £ 560          |                                                                                             |
| <b>External Audit Services</b> | External procurement                                                                     | tba            | To be agreed when/if required for capital fund monitoring                                   |
| <b>Insurance</b>               | Accountable Body existing arrangements will cover                                        | Nil            |                                                                                             |
| <b>TOTAL</b>                   |                                                                                          | <b>£12,289</b> |                                                                                             |

## **SCHEDULE 5**

### **EXIT PROVISIONS**

1. In the event of any one or more Partner Authority giving notice to withdraw from the Joint Committee pursuant to paragraph 5.3 of the Joint Committee Terms of Reference then:
  - a. the Joint Committee shall (unless an earlier date is agreed) meet within one month of the service of any such notice of withdrawal for the purpose of preparing an implementation plan for the withdrawal;
  - b. the Partner Authorities shall each act reasonably in co-operating with each other and facilitate the disaggregation of the Joint Committee in such a manner (including entering into any transitional arrangements) so as to:
    - i. cause the least disruption;
    - ii. agree arrangements for the transfer of staff and avoid redundancies wherever possible;
    - iii. facilitate the transfer of data and records; and
    - iv. mitigate costs so far as practicable.
2. Save as mentioned in paragraph 3:
  - a. the Partner Authority giving notice of withdrawal from the Joint Committee (or if there is more than one such Partner Authority then each of them in equal shares) shall bear all costs arising out of or in connection with such withdrawal and shall indemnify the remaining Partner Authorities against all costs and expenses incurred or to be incurred by them arising out of or in connection with that withdrawal including (without prejudice to the generality of the foregoing):
    - i. costs of redundancy or re-deployment of any staff;
    - ii. termination of any lease or licence for the occupation of any premises or use of any equipment including ICT hardware or software agreements (all such matters to be at the discretion of the Partner Authorities other than those that have given notice to withdraw from the Joint Committee);
    - iii. procurement of any alternative accommodation or relocation of any services or staff; procurement implementation or reconfiguration of any equipment, ICT hardware or software reasonably required for the provision of the on-going shared service by the remaining Partner Authorities;
    - iv. preparation, disaggregation and transfer of any data and records;
    - v. staff costs and administrative overheads in connection with any of the above.

- b. The Partner Authority giving notice of withdrawal (or if there is more than one such Partner Authority then each of them) shall be liable for the costs set out in paragraph 2(a) as if they had not given notice of termination until the later of three years after the date of its withdrawal from the Joint Committee.
  - c. If the Accountable Body ceases to be Accountable Body but remains a Partner Authority, then the provisions paragraphs 2(a) and 2(b) shall not apply unless and until that party withdraws as a Partner Authority.
3. In the event that:
- a. all the Partner Authorities agree to discontinue the Joint Committee; or
  - b. one or more Partner Authorities have given notice of withdrawal pursuant to paragraph 5.3 of the Joint Committee Terms of Reference and there are not at least two Partner Authorities wishing to continue with the provision of the Joint Committee,
- then the Partner Authorities shall cooperate to close the Joint Committee and:
- c. all costs as mentioned in paragraph 2 above shall be deemed to be costs of the Joint Committee and apportioned equally amongst all the Partner Authorities; and
  - d. the Partner Authorities shall seek to agree how any Assets held by the Accountable Body at the date of termination of this Agreement should be distributed between them.

## **SCHEDULE 6**

### **CONSEQUENCES OF TERMINATION**

Upon termination of this Agreement howsoever caused and for whatever reason:

1. All amounts due under this Agreement to the Accountable Body (in its role as Accountable Body) including amounts which have accrued but have not yet been invoiced by the Accountable Body shall become immediately due and payable by the relevant Partner Authorities.
2. The Accountable Body shall repay to the relevant Partner Authorities any Charges paid by such Partner Authorities in respect of Services not received at the date of termination.
3. The Partner Authorities shall have no claim against Accountable Body for compensation for loss of profit, loss of goodwill or any similar loss.
4. Any access to a Partner Authority's IT systems by any other Partner Authority shall cease immediately and each Partner Authority shall return any equipment, materials or property belonging to any other Partner Authority as soon as practically possible and in any event within one month from the date of termination unless the parties agree otherwise.
5. Any right or licence by the Accountable Body to the Joint Committee or the Partner Authorities to use the Accountable Body's Intellectual Property shall cease to have effect unless the parties agree otherwise.
6. Each Partner Authority shall return any Accountable Body equipment within a reasonable time, and in any event within one month from the date of termination, unless the parties agree otherwise.
7. Subject as otherwise provided in this Agreement and to any rights or obligations which have accrued prior to termination, no Partner Authority shall have any further obligation to the other Partner Authorities under this Agreement.

**SCHEDULE 7**

**NOT USED**



## SCHEDULE 8

### DATA SHARING SCHEDULE

**(1) Background**

The Partner Authorities have determined that they are Joint Controllers in relation to the Shared Personal Data and accordingly this Data Sharing Schedule sets out the arrangements between them for the purposes of the Data Protection Legislation. The parties agree to share and use Personal Data with each other within the UK for the Agreed Purposes on the terms set out in the Agreement and this Data Sharing Schedule.

**(2) Agreed terms**

**1 INTERPRETATION**

The following definitions and rules of interpretation apply in this Data Sharing Schedule.

|                                      |                                                                                                                                                                                |
|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>“Agreed Purposes”</b>             | has the meaning given to it in paragraph 2 of this Data Sharing Schedule.                                                                                                      |
| <b>"Business Day"</b>                | a day other than a Saturday, Sunday or public holiday in England when banks are open for business.                                                                             |
| <b>"Commencement Date"</b>           | has the meaning given at the beginning of the Agreement.                                                                                                                       |
| <b>"Criminal Offence Data"</b>       | means Personal Data relating to criminal convictions and offences or related security measures to be read in accordance with section 11(2) of the DPA 2018.                    |
| <b>"Data Protection Legislation"</b> | all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 and any successor legislation. |
| <b>“EIR”</b>                         | the Environmental Information Regulations 2004, as amended from time to time.                                                                                                  |
| <b>“GDPR/UK GDPR”</b>                | has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act.                                                                   |

2018.

|                                         |                                                                                                                                                              |
|-----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>“FOIA”</b>                           | the Freedom of Information Act 2000, as amended from time to time.                                                                                           |
| <b>"ICO"</b>                            | means the Information Commissioner’s Office or any replacement or successor supervisory body within the United Kingdom.                                      |
| <b>"Personal Data Breach"</b>           | a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Shared Personal Data. |
| <b>“Public Authority”</b>               | shall have the meaning as set out in section 7 of the Data Protection Act 2018.                                                                              |
| <b>"Shared Personal Data"</b>           | the Personal Data to be shared between the parties under paragraph 3 of this Data Sharing Schedule.                                                          |
| <b>“Special Category Personal Data”</b> | the categories of Personal Data set out in Article 9(1) of the UK GDPR.                                                                                      |
| <b>“Subject Access Request”</b>         | the exercise by a data subject of his or her rights under Article 15 of the UK GDPR and the DPA 2018.                                                        |
| <b>“Term”</b>                           | the timeframe from the Commencement Date up until the Agreed Purposes have been fulfilled.                                                                   |

- 1.1 Controller, Joint Controllers, Processor, Data Subject, Personal Data, Processing, and appropriate technical and organisational measures shall have the meanings given to them in the Data Protection Legislation.
- 1.2 Paragraph headings shall not affect the interpretation of this Data Sharing Schedule.
- 1.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular and a reference to one gender shall include a reference to the other genders. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.4 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

1.5 A reference to writing or written includes email but not fax.

## 2 PURPOSE

2.1 This Data Sharing Schedule sets out the framework for the sharing of Personal Data when a Partner Authority (the “**Data Discloser**”) discloses Personal Data to the other Joint Controllers (the “**Data Receiver(s)**”). It defines the principles and procedures that the parties shall adhere to and the responsibilities the parties owe to each other.

2.2 Each Partner Authority is a Public Authority and considers this data sharing initiative necessary to progress the Harlow and Gilston Garden Town Project which will benefit the local population of East Hertfordshire through the creation of new accommodation, schools, employment as well as improved infrastructure and town centre enhancement and regeneration.

2.3 The Partner Authorities agree to only process Shared Personal Data, for the following purposes and by the following means:

2.3.1 To facilitate public and organisational consultations and newsletters / updates / HGGT Communications. To allow FOI requests relevant to HGGT to be enacted. To allow data collected on behalf of HGGT to be enacted. To facilitate public and organisational consultations and newsletters / updates / HGGT Communications. To allow FOI requests relevant to HGGT to be enacted. To allow data collected on behalf of HGGT to be accessed and used by all Partner Authorities. To allow Health and Safety obligations to staff working on the HGGT project to be met.

2.3.2 Sharing data would be electronic, via emails with spreadsheets, Word documents and databases via phone calls or in person / via hard copy. Shared electronic filing systems may also be developed.

The Partner Authorities shall not process Shared Personal Data in a way that is incompatible with the purposes described in this paragraph.

2.4 Notwithstanding paragraph 2.3, if and to the extent that the Partner Authorities determine in respect of any Processing of Personal Data that the relationship between them is not one of Joint Controllers because it is between Controllers, or between Controllers and Processors, then they will cooperate in agreeing and documenting appropriate arrangements for that other relationship or those other relationships

## 3 SHARED PERSONAL DATA

3.1 The following types of Personal Data will be shared between the Partner Authorities during the Term of the Agreement:

3.1.1 employee contact details from each of the parties;

3.1.2 complainants and other individuals in relation to a complaint or query;

- 3.1.3 job applicants and their current and former staff and volunteers; and referee contact details
  - 3.1.4 contractors and other professionals appointed to assist with the Agreed Purposes; and
  - 3.1.5 visitors to their websites.
  - 3.1.6 Consultation responses with the public carried out by or relating to the HGGT project including surveys of individuals or businesses or monitoring of services
- 3.2 Special Category Personal Data and Criminal Offence Data will not be shared between the Partner Authorities for the Agreed Purposes.
- 3.3 The Shared Personal Data must not be irrelevant or excessive with regard to the Agreed Purposes.

#### **4 LAWFUL, FAIR AND TRANSPARENT PROCESSING; JOINT CONTROLLER RESPONSIBILITIES**

- 4.1 Each Partner Authority shall ensure that it processes the Shared Personal Data fairly and lawfully in accordance with paragraph 4.3 during the Term of the Agreement.
- 4.2 Each Partner Authority shall comply with all the obligations imposed on a controller under the Data Protection Legislation, and any material breach of the Data Protection Legislation by one Partner Authority shall, if not remedied within 30 days of written notice from one or more Partner Authorities, give grounds to that Partner Authority to terminate its participation in this Data Sharing Schedule with immediate effect.
- 4.3 Each Partner Authority shall ensure that it has legitimate grounds under the Data Protection Legislation for the processing of Shared Personal Data.
- 4.4 The Data Discloser shall, in respect of Shared Personal Data, ensure that it provides clear and sufficient information to the Data Subjects, in accordance with the Data Protection Legislation, of the purposes for which it will process their Personal Data, the legal basis for such purposes and such other information as is required by Article 13 of the GDPR including if Shared Personal Data will be transferred to a third party, that fact and sufficient information about such transfer and the purpose of such transfer to enable the data subject to understand the purpose and risks of such transfer
- 4.5 The Data Receivers undertake to inform the Data Subjects, in accordance with the Data Protection Legislation, of the purposes for which it will process their Personal Data, the legal basis for such purposes and such other information as is required by Article 14 of the GDPR including if Shared Personal Data will be transferred to a third party, that fact and sufficient information about such transfer and the purpose of such transfer to enable the Data Subject to understand the purpose and risks of such transfer.
- 4.6 Each Partner Authority shall comply with its obligations under Article 26 of the GDPR and shall make available to Data Subjects the essence of the arrangements

contemplated by this Data Sharing Schedule, acknowledge that Data Subjects may exercise their rights under the GDPR in respect of and against each and agree to provide to each other party such cooperation as may reasonably be required to assist that other party in compliance with its obligations under Article 26 of the GDPR.

## **5 DATA SUBJECTS' RIGHTS**

- 5.1 The Partner Authorities each agree to provide such assistance as is reasonably required to enable the other parties to comply with requests from Data Subjects to exercise their rights under the Data Protection Legislation within the time limits imposed by the Data Protection Legislation.
- 5.2 Each Partner Authority is responsible for maintaining a record of individual requests for information, the decisions made and any information that was exchanged. Records must include copies of the request for information, details of the data accessed and shared and where relevant, notes of any meeting, correspondence or phone calls relating to the request.
- 5.3 Notwithstanding the foregoing, each Partner Authority acknowledges and accepts that each other party is subject to the requirements of the FOIA and EIR and shall assist and cooperate with the other Partner Authorities to facilitate any required disclosure under the FOIA and EIR and UK GDPR.

## **6 DATA RETENTION AND DELETION**

- 6.1 The Data Receivers shall not retain or process Shared Personal Data for longer than is necessary to carry out the Agreed Purposes.
- 6.2 Notwithstanding paragraph 6.1, the Partner Authorities shall continue to retain Shared Personal Data in accordance with any statutory or professional retention periods applicable to local authorities.
- 6.3 The Data Receiver shall ensure that any Shared Personal Data are returned to the Data Discloser or destroyed on termination or expiry of the Agreement, termination of the Data Discloser's participation in the provision of this Data Sharing Schedule, or once processing of the Shared Personal Data is no longer necessary for the Agreed Purposes.
- 6.4 Following the deletion of Shared Personal Data in accordance with paragraph 6.3, the Data Receivers shall notify the Data Discloser that the Shared Personal Data in question has been deleted.

## **7 INTERNATIONAL DATA TRANSFERS**

The Partner Authorities shall not make a transfer of Personal Data outside the EEA.

## **8 SECURITY AND TRAINING**

- 8.1 The Partner Authorities shall only provide the Shared Personal Data to the other Partner Authorities by methods that afford the proper protection and privacy to the Shared Personal Data.
- 8.2 The Partner Authorities each undertake to have in place (and to regularly review and update) throughout the Term appropriate technical and organisational security measures, taking into account the cost of implementation and the state of the technological development, to:
- 8.2.1 prevent unauthorised or unlawful processing of the Shared Personal Data and the accidental loss or destruction of, or damage to, the Shared Personal Data; and
- 8.2.2 ensure a level of security appropriate to the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and the nature of the Shared Personal Data to be protected.
- 8.3 Each Partner Authority shall ensure that its staff members are appropriately trained to handle and process the Shared Personal Data in accordance with this paragraph and any other applicable data protection laws.

## **9 PERSONAL DATA BREACHES AND REPORTING PROCEDURES**

- 9.1 Each Partner Authority shall comply with its obligation to report a Personal Data Breach to the ICO and (where applicable) data subjects under Article 33 of the GDPR and shall each inform the other parties of any Personal Data Breach irrespective of whether there is a requirement to notify the ICO or data subject(s).
- 9.2 The Partner Authorities each agree to provide reasonable assistance as is necessary to each other to facilitate the handling of any Personal Data Breach in an expeditious and compliant manner.

## **10 REVIEW AND TERMINATION OF DATA SHARING SCHEDULE**

- 10.1 The Partner Authorities shall review the effectiveness of this Data Sharing Schedule regularly and on the addition and removal of a party, having consideration to the aims and purposes set out in paragraph 2. The Partner Authorities shall continue, amend or terminate the Data Sharing Schedule depending on the outcome of this review.
- 10.2 Each Partner Authority reserves its rights to inspect any other Partner Authority's arrangements for the processing of Shared Personal Data and to terminate the Partner Authority's participation in the Data Sharing Schedule where it considers that another Partner Authority is not processing the Shared Personal Data in accordance with this Data Sharing Schedule.
- 10.3 In the event that any Partner Authority terminates its participation, or has its participation terminated, in this Data Sharing Schedule, its obligations under the Agreement (with the exception of this Schedule 8) shall continue unaffected.

## **11 RESOLUTION OF DISPUTES WITH DATA SUBJECTS OR THE ICO**

- 11.1 In the event of a dispute or claim brought by a data subject or the ICO concerning the processing of Shared Personal Data against any or all of the Partner Authorities, the Partner Authorities will inform each other about any such disputes or claims, and will cooperate with a view to settling them amicably in a timely fashion.
- 11.2 The Partner Authorities agree to respond to any generally available non-binding mediation procedure initiated by a data subject or by the ICO. If they do participate in the proceedings, the Partner Authorities may elect to do so remotely (such as by telephone or other electronic means). The Partner Authorities also agree to consider participating in any other arbitration, mediation or other dispute resolution proceedings developed for data protection disputes.
- 11.3 Each Partner Authority shall abide by a decision of a competent court of the Data Discloser's country of establishment or of the ICO.

## **12 WARRANTIES**

- 12.1 Each Partner Authority warrants and undertakes that it will:
- 12.1.1 Process the Shared Personal Data in compliance with all applicable laws, enactments, regulations, orders, standards and other similar instruments that apply to its personal data processing operations;
  - 12.1.2 make available on request to the Data Subjects who are third party beneficiaries a copy of this Data Sharing Schedule, unless the Data Sharing Schedule contains confidential information;
  - 12.1.3 respond within five (5) working days and as far as reasonably possible to enquiries from the ICO in relation to the Shared Personal Data;
  - 12.1.4 respond to Subject Access Requests in accordance with the Data Protection Legislation;
  - 12.1.5 where applicable, maintain registration and/or pay the appropriate fees with all ICO to process all Shared Personal Data for and by the Agreed Purpose; and
  - 12.1.6 take all appropriate steps to ensure compliance with the security measures set out in paragraph 8 above.
- 12.2 The Partner Authorities warrant and undertake that it (when acting as a Data Discloser) is entitled to provide the Shared Personal Data to the Data Receivers and it will ensure that the Shared Personal Data is accurate and will continually monitor and update the Shared Personal Data where necessary.
- 12.3 Except as expressly stated in this Data Sharing Schedule, all warranties, conditions and terms, whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.

### 13 INDEMNITY

Each Partner Authority shall indemnify the others (to the extent and proportion that each indemnified party is not at fault) against all liabilities, costs, expenses, damages and losses (including but not limited to any direct and reasonably foreseeable indirect or consequential losses, and all interest, penalties and legal costs and all other reasonable and properly professional costs and expenses) suffered or incurred by the indemnified party arising out of the breach of the Data Protection Legislation or this Data Sharing Schedule by the indemnifying party, its employees or agents, provided that the indemnified party gives to the indemnifier prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it.

## SCHEDULE 9

### MEMORANDUM OF UNDERSTANDING

### MEMORANDUM OF UNDERSTANDING

relating to

### THE HARLOW & GILSTON GARDEN TOWN ROLLING INFRASTRUCTURE FUND

#### PARTIES

- (1) EAST HERTFORDSHIRE DISTRICT COUNCIL
- (2) EPPING FOREST DISTRICT COUNCIL
- (3) ESSEX COUNTY COUNCIL
- (4) HARLOW DISTRICT COUNCIL
- (5) HERTFORDSHIRE COUNTY COUNCIL

each a “**Council**”, and together “**the Councils**”.

#### INTRODUCTION

- A The Councils are collaborating to facilitate the delivery of the Harlow and Gilston Garden Town (“**Garden Town**”).
- B HCC, on behalf of all the Councils, successfully submitted a bid to the Ministry for Homes, Communities and Local Government (acting through Homes England) for approximately £171 million funding of the Housing Investment Grant to forward fund infrastructure in the Garden Town area. HCC subsequently entered into the Grant Determination Agreement in respect of the funding.
- C In the Grant Determination Agreement, HCC committed to the establishment of a Rolling Infrastructure Fund (“**RIF**”), through which the HIG Funding would be recovered from developers and made available for forward funding of and completing the wider Garden Town sustainable transport corridor network and

other infrastructure in the Garden Town area; where possible that funding would also be recycled, creating a rolling basis for infrastructure investment.

- D The Councils are entering into this Memorandum of Understanding (“**Memorandum**”) to record and set out the basis on which they will collaborate with each other to establish and operate the RIF.
- E The Councils acknowledge that the arrangements described in this Memorandum will require development over time, to reflect both changing circumstances and the further detail the parties will need to agree in due course in respect of operation and governance of the RIF. Any such development will be subject to agreement of all the Councils.

## 1. DEFINITIONS

In this Memorandum, the following terms shall have the meanings given below:

|                                 |                                                                                                                                                                                                                                                                                                          |
|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| “Agreed Proportions”            | has the meaning given in paragraph 5.2                                                                                                                                                                                                                                                                   |
| “CIL”                           | means a community infrastructure levy or similar                                                                                                                                                                                                                                                         |
| “District Councils”             | means, together, East Hertfordshire District Council, Epping Forest District Council and Harlow District Council (and “District Council” means each of them)                                                                                                                                             |
| “Garden Town Board”             | means the board established by the Councils, and including a representative from each Council, to promote and facilitate cooperative working to oversee delivery of the Garden Town                                                                                                                      |
| “Garden Town Development”       | means a development or proposed development within the area of the Garden Town for which a planning application is (or has been) submitted                                                                                                                                                               |
| “Grant Determination Agreement” | means the agreement dated 31 March 2021 and entered into between HCC and Homes England relating to provision of the HIG Funding                                                                                                                                                                          |
| “HCC”                           | means Hertfordshire County Council                                                                                                                                                                                                                                                                       |
| “HIG Bid”                       | means the bid for the HIG Funding, as referred to in paragraph B of the Introduction to this Memorandum                                                                                                                                                                                                  |
| “HIG Funding”                   | means the funding made available or to be made available to HCC by Homes England under the Grant Determination Agreement secured by the Councils from the Housing Investment Grant towards the Initial Projects, which as at the date of this Memorandum is expected to be in the region of £171 million |

|                                |                                                                                                                                                  |
|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| “Infrastructure Delivery Plan” | means the infrastructure delivery plan developed jointly by the Councils in relation to Garden Town infrastructure, as updated from time to time |
| “Initial Projects”             | has the meaning given in paragraph 4.1                                                                                                           |
| “Section 106 Obligations”      | means planning obligations imposed by a Council under section 106 of the Town and Country Planning Act 1990                                      |
| “STC”                          | means the Sustainable Transport Corridor network intended to be created at the Garden Town                                                       |

## **2. ESTABLISHMENT OF THE ROLLING INFRASTRUCTURE FUND**

- 2.1 Each Council agrees to the establishment of the RIF.
- 2.2 Each Council agrees that the RIF will be built from payments secured by the Councils from developers of Garden Town Developments in contribution to the cost of the STC and other Garden Town infrastructure, in accordance with this Memorandum. The first such payments will arise in respect of the Initial Projects, which will be unlocked by the HIG Funding.
- 2.3 For practical reasons, the RIF will not initially be held by a single entity. Each Council that receives relevant payments from developers will hold those sums as a separately-identifiable interest-bearing fund. The aggregate of all such funds will constitute the RIF.
- 2.4 The Councils acknowledge that they will seek, over time, to put governance arrangements in place that will allow these disparate funds to be brought together and held and managed by a single entity for the benefit of and on behalf of the Councils. Development of such arrangements will form part of the ongoing review of the RIF to which paragraph 9 refers. This Memorandum does not commit any Council to this arrangement which shall be subject to a separate decision.

## **3. ROLLING INFRASTRUCTURE FUND GOVERNANCE**

- 3.1 If any decision is required in relation to the RIF (in particular in relation to expenditure from the RIF) which impacts a Council, such Council shall follow its own decision making process to determine the decision to be taken. The Garden Town Board may make a non-binding recommendation to such Council(s). Such Council(s) shall consult with the remaining parties to this Memorandum prior to taking such decision to the extent that such decision impacts on the recovery of the HIG Funding.
- 3.2 Any amendment to the terms of this Memorandum will require the unanimous approval of all five Councils.
- 3.3 Any decisions taken in respect of the RIF shall take due account of any relevant provisions of the Grant Determination Agreement and the Delivery Agreements.

#### 4. INITIAL PROJECTS – FORWARD FUNDING

4.1 In accordance with the Grant Determination Agreement and subsequent discussions, the HIG Funding will be used to fund delivery of the following projects:

4.1.1 the expansion of Central Crossing (5th Avenue) to extend the STC between the Gilston Area and Harlow Town Railway Station and Burnt Mill Roundabout;

4.1.2 the Eastern Stort River Crossing, comprising:

(a) realignment of the Eastwick Road and new junction allowing access to Terlings Park and Pye Corner;

(b) Pye Corner bypass including junction between north-south section and east-west section;

(c) remainder of Eastern Crossing including River Way Bridge;

(Note: It is proposed that funding is provided for the Eastern Stort Crossing both directly and indirectly, through being made available to the relevant developer to fund on-site works within the Gilston Area thereby allowing the developer to prioritise development cash flow for the completion of delivery of the Crossing works. This has been agreed due to the time constraints of the HIG funding availability)

4.1.3 the extension of the STC from Burnt Mill Roundabout through to the Town Centre; and

4.1.4 the new Cambridge Road/River Way junction,

(together, the “Initial Projects”).

4.2 The Councils acknowledge that HCC has entered into the Grant Determination Agreement with Homes England and that HCC is the contracting body in respect of the HIG Funding.

4.3 The Councils further acknowledge that, in order to secure delivery of the Initial Projects, HCC has entered into delivery agreements with:

4.3.1 Places for People, pursuant to which Places for People will be obliged to deliver the projects referred to in paragraphs **Error! Reference source not found.** and **Error! Reference source not found.**; and

4.3.2 Essex County Council, pursuant to which Essex County Council will be obliged to deliver the projects referred to in paragraphs **Error! Reference source not found.** and **Error! Reference source not found.**,

(each a “Delivery Agreement”).

4.4 HCC hereby confirms its intention to draw down the HIG Funding in accordance with the Grant Determination Agreement, to pay such funding to the relevant counterparty in accordance with each Delivery Agreement, and to enforce its rights under each Delivery Agreement to secure delivery of the relevant infrastructure.

4.5 In the event of any conflict between this Memorandum and either the Grant Determination Agreement or any of the Delivery Agreements, the Grant Determination Agreement or Delivery Agreement (as relevant) shall take precedence.

## 5. INITIAL PROJECTS – RECOVERY OF CONTRIBUTIONS

5.1 The Councils acknowledge that it is their collective intention:

5.1.1 to seek to recover 100% of the HIG Funding, for inclusion in the RIF;

5.1.2 that such amounts will be recovered from developers promoting relevant Garden Town Developments, pursuant to section 106 of the Town and Country Planning Act 1990; and

5.1.3 that such amounts will be recovered from developers in the Agreed Proportions.

5.2 The “**Agreed Proportions**” are (as applicable):

5.2.1 those set out in the Infrastructure Delivery Plan or other associated evidence (as updated from time to time);

5.2.2 those set out in any “Developer Contribution Guidance” or related policy applicable to the Garden Town that is developed and agreed by the Councils; or

5.2.3 (if relevant) the proportions required by the relevant District Council’s planning policy.

5.3 In respect of Section 106 Obligations (whether by way of bilateral agreement or unilateral undertaking) relating to a planning application for a relevant Garden Town Development, each District Council will:

5.3.1 use its reasonable endeavours to ensure that the Section 106 Obligations require the relevant developer to make financial contributions towards the cost of the Initial Projects in the Agreed Proportions (either directly or by reference to a separate agreement under which the developer is obliged to repay the applicable portion of the Initial HIG Funding over time);

5.3.2 use its reasonable endeavours to enforce the terms of such Section 106 Obligations in order to recover monies due from the developer in respect of the Initial Projects; and

- 5.3.3 retain the contributions received from developers pursuant to Section 106 Obligations (or related agreements) which form part of the RIF as separately-identifiable funds.
- 5.4 Each District Council agrees to work with the other Councils and the Garden Town legal advisers to develop standard clauses for use within section 106 agreements and undertakings in respect of the payment of contributions. To the extent such clauses are developed and agreed, each District Council agrees to use reasonable endeavours to ensure the clauses are included in relevant section 106 agreements /undertakings.
- 5.5 If a District Council, in negotiating Section 106 Obligations, considers that it would be appropriate to agree with a developer an amount lower than the Agreed Proportions (such that there would be a shortfall in payments back to the RIF), that Council shall consult with the other partner Councils and have due regard to their representations before coming to a decision. The Councils acknowledge that this should be avoided wherever possible and that the recovery of contributions for the RIF should be treated in accordance with the importance set out in the Infrastructure Delivery Plan.
- 5.6 The Councils recognise that adoption by a District Council of a CIL could affect the value of contributions sought from development and the process for agreeing how collected CIL monies are allocated and spent for the funding of infrastructure and other projects. Any Council that considers the adoption of a CIL will consult with the other partner Councils and have due regard to their representations before coming to a decision regarding the adoption of a CIL charging schedule and how collected CIL monies are allocated to the Initial Projects and subsequent projects.
- 5.7 If the existing Planning Bill introduces new Infrastructure Levy arrangements, the District Councils will work cooperatively with the other Councils to put measures in place which ensure that contributions continue to be made to the RIF in line with the principles set out in this Memorandum.
- 5.8 Without prejudice to the preceding provisions of this paragraph 5, in the event of any conflict between this Memorandum and any agreement entered into by a Council pursuant to section 106 of the Town and Country Planning Act 1990, the section 106 agreement shall take precedence.

## 6. SUBSEQUENT PROJECTS

- 6.1 The Councils acknowledge that, at the present time, the following projects (listed in no particular order of timing or priority) have been identified in the HIG Bid as priorities for future RIF funding as set out in Schedule 1:
- 6.1.1 replacement of Central Crossing Rail Bridge (excluding such works included within the widening and subject to outcome of structural assessment indicating it as necessary and according to the timescale of that necessity);

- 6.1.2 Eastern STC between Town Centre, Enterprise Zone and East Harlow Garden Community;
  - 6.1.3 Western STC between Town Centre, National Institute for Health Protection/Pinnacles and Water Lane Garden Community;
  - 6.1.4 Southern STC between Town Centre and Latton Priory Garden Community; and
  - 6.1.5 to the extent not covered by paragraphs 6.1.2 to 6.1.4, the Town Centre STC and any associated interchange and hub.
- 6.2 The Councils acknowledge that the STC network, where located outside of the allocated new garden community sites, is treated in the Infrastructure Delivery Plan as a single item of infrastructure (as represented by the schemes referred to in paragraph 4.1.3 and parts of those referred to in paragraphs 6.1.2 – 6.1.5). The total cost of this off-site STC infrastructure will exceed the total of the contribution provided by HIG for the STC and the amount recovered into the RIF. The Councils each agree to cooperate in an effort to close this funding gap including using reasonable endeavours to secure developer contributions for this purpose (including by way of section 106 or Community Infrastructure Levy contribution from Garden Town Developments both referred to and those not referred to in the Infrastructure Delivery Plan). The Councils agree that such Developer Contributions will be allocated to the RIF and will seek to act in accordance with paragraphs 5.3.2 and 5.3.3 in respect of the same.
- 6.3 The Councils agree to use reasonable endeavours to secure additional grant or revenue funding for the delivery of the STC network and, where appropriate, to allocate such funding to the RIF, subject always to any terms and conditions attaching to such funding.
- 6.4 The Councils commit to work together to develop an investment strategy to guide future decisions about which projects should benefit from RIF funding beyond the Initial Projects including but not necessarily exclusive to those set out in paragraphs 6.1.1 to 6.1.5. The Councils acknowledge that the projects funded by the RIF may vary from those listed in paragraphs 6.1.1 to 6.1.5.
- 6.5 The Garden Town Board will be responsible for recommending to the Councils infrastructure schemes for funding from the RIF in future. In making any recommendation the Garden Town Board will principally seek to use the RIF for measures to achieve the active and sustainable mode share targets of the Garden Town and to unlock the provision of further new homes, and will have regard to the Infrastructure Delivery Plan (as updated from time to time) and other associated evidence, the investment strategy agreed by the Councils and the amounts available in the RIF.
- 6.6 Unless otherwise agreed by all the partner Councils in any particular case, RIF funding will only be allocated to projects if arrangements are put in place for the recovery of the funding from developer contributions (or other sources)

over time, in line with the principles in paragraph 5, with the aim of ensuring that the RIF is continually replenished.

- 6.7 Any proposal for expenditure from the RIF beyond the Initial Projects will require the unanimous approval of all partner Councils (unless otherwise agreed by the Councils).

## 7. FUND HOLDERS' OBLIGATIONS

- 7.1 As noted in paragraph 2.3, initially the RIF will not be held by a single entity. Each Council that receives relevant payments from developers will hold those sums as a separately-identifiable fund. The aggregate of all such funds will constitute the RIF.

- 7.2 Specifically:

7.2.1 in respect of the infrastructure referred to in paragraphs 4.1.1 and 4.1.2, HCC will receive and hold the payments made by the Gilston Area Villages 1-6 landowners (Places for People and/or any successors) pursuant to HIG recovery payments secured through s.106 obligations assumed by those parties associated with relevant planning consents;

7.2.2 each of the District Councils and/or County Councils may receive and hold payments made in respect of section 106 obligations (or, if relevant, the Community Infrastructure Levy) in relation to the infrastructure referred to in paragraphs **Error! Reference source not found.** and 4.1.2 and the STC network, which includes the infrastructure referred to in paragraphs 4.1.3 and **Error! Reference source not found.**, and that referred to in paragraphs 6.1.2 to 6.1.5; and

7.2.3 any of the Councils may receive and hold payments made in respect of section 106 obligations (or, if relevant, the Community Infrastructure Levy) in relation to subsequent infrastructure projects funded by the RIF.

- 7.3 Each Council that receives payments from developers in relation to the Initial Projects or any subsequent projects funded by the RIF will:

7.3.1 retain such payments as a separately-identifiable interest-bearing fund, acknowledging that relevant funds form part of the RIF and can be used only in accordance with this Memorandum and the purpose for which they were provided;

7.3.2 provide to the other Councils full transparency of all such amounts received, and all amounts held as part of the RIF at any particular time; and

7.3.3 not permit any RIF monies to be expended other than in accordance with this Memorandum and the purpose for which they were provided (and if money is paid out in breach of this commitment, the relevant

Council shall replenish the RIF as soon as practicable upon becoming aware of the same).

- 7.4 Any interest earned in relation to RIF monies held by any Council shall itself be considered part of the RIF and each Council shall add any such interest to the RIF monies it is holding from time to time.
- 7.5 As Contracting Authority, HCC will seek to ensure that all costs to administer the HIG programme will be met within the £171m funding envelope. In the event that HCC incurs reasonable and evidenced costs and expenses in respect of its role as contracting body to the HIG Funding beyond the contracted completion date of 31 March 2025, HCC will in the first instance seek additional funding for administrative costs required to maintain a scaled down functional service until the Infrastructure Works as set out in Part 1 Schedule 1 of the Grant Determination Agreement have been completed. If such costs and expenses cannot be recovered via the Grant Determination Agreement (and/or the connected back-to-back agreements) HCC shall be entitled to retain an appropriate portion of any monies it receives from developers in accordance with this paragraph 7 as reimbursement for the costs and expenses it incurs as contracting body to the HIG Funding. Following an assessment of the current administrative requirements, it is anticipated that as the Works referred to above relate specifically to activities after the funded programme which ceases on 31 March 2025, they will be evaluated over a financial year and be no greater than £80,000 per annum. All requests will be fair and reasonable and supported with appropriate evidence.
- 7.6 HCC shall produce all evidence as is reasonably required by the other Councils to demonstrate the quantum and appropriateness of such retention as detailed in clause 7.5. HCC shall provide the evidence at the request of the other Councils but provided that HCC shall not be obliged to provide such evidence more than twice in any calendar year. Any evidence supplied by HCC shall be presented in accordance with generally accepted accounting standards and practice
- 7.7 Notwithstanding any other provision of this Memorandum, HCC will not be entitled to recover costs or make a claim to recover its costs from the RIF to the extent that it has already recovered them pursuant to any other sources, agreements (including but not limited to Homes England and/or the GDA) or has received or is able to apply for funding in relation to them. HCC will recover its costs from Homes England or alternative sources before seeking to recover them from the RIF; it is acknowledged and agreed that alternative sources do not include HCC's own funding.
- 7.8 In the event that any of the Councils objects to the quantum of the retention made pursuant to paragraph 7.5, such dispute shall be resolved in accordance with paragraph 12.

## **8. DURATION**

- 8.1 This Memorandum shall remain in place until such time as:

8.1.1 the Councils agree that it should be superseded by an alternative agreement or arrangement which sets out the manner in which the RIF will be operated by the Councils; or

8.1.2 this Memorandum is terminated pursuant to paragraph 8.2.

8.2 This Memorandum may be terminated only by unanimous agreement of all five Councils. Any such agreement must specify how funds remaining in the RIF at the relevant time are to be allocated between the Councils. Such funds must be spent in accordance with the Grant Determination Agreement and section 106 of the Town and Country Planning Act 1990 on infrastructure to unlock housing developments.

## **9. REVIEW AND DEVELOPMENT OF THE RIF**

9.1 The Councils will request the Garden Town Board to review the terms of this Memorandum and the operation of the RIF on a six-monthly basis (or at such other frequency as the Councils may agree), and to report its findings and any recommendations to the Councils.

9.2 The Councils acknowledge that there is potential to develop the manner in which the RIF is governed and operated in order to improve its effectiveness as a vehicle to enable the forward funding of infrastructure delivery in the Garden Town. The Councils will work together in good faith to explore ways in which this might be achieved, including consideration of the ability to forward fund infrastructure in reliance on future developer contributions.

## **10. NO FETTER**

Nothing in this Memorandum shall fetter the discretion of any Council in the exercise of any of its statutory rights, powers, duties, discretions or functions, including in particular its role as local planning, highway or education authority.

## **11. STATUS**

11.1 This Memorandum is not intended to be legally binding and no legal obligations or legal rights shall arise between the Councils as a result of this Memorandum. Each Council enters into this Memorandum intending to honour all of its commitments but shall not be bound by them.

11.2 No legal partnership is created or intended to be created by the terms of this Memorandum.

## **12. DISPUTE RESOLUTION**

12.1 Any dispute arising in relation to the quantum of the retention made pursuant to clause 7.5 ("Dispute") shall be resolved in accordance with this paragraph 12.

12.2 If a Dispute cannot be resolved by the Councils within 10 working days of the dispute arising, any Council can, by written notice to the other Councils, require the Dispute to be escalated. In such circumstances the Dispute will be

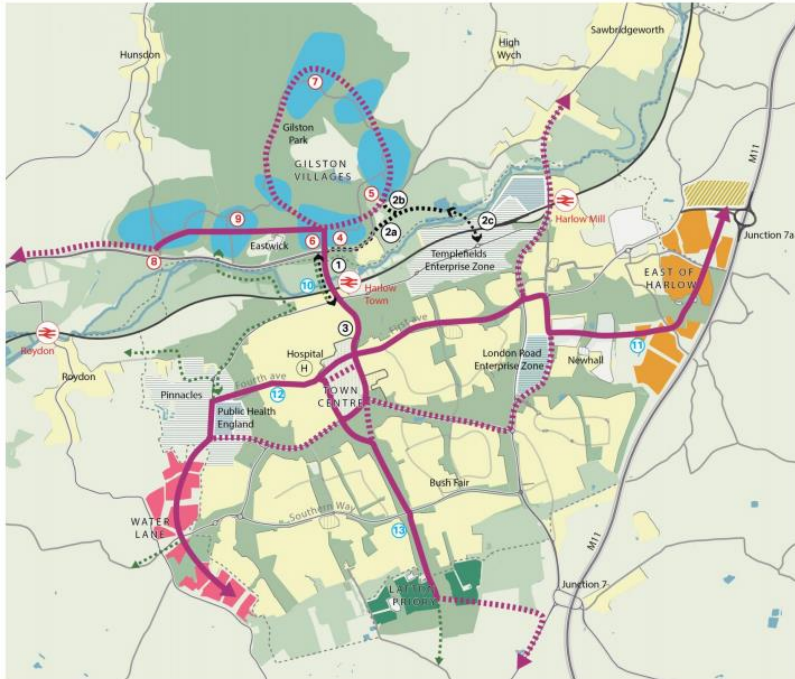
referred to the respective Chief Executives of the Councils who shall consult in good faith in an attempt to come to an agreement in relation to the disputed matter.

- 12.3 If the Dispute is not resolved by consultation under paragraph 12.2 within 10 working days of the Dispute being escalated, any Council may invite the others to attempt to resolve the dispute through mediation. The other Councils shall act reasonably in deciding whether or not to accept such invitation. A mediator will be selected by agreement of the Councils.
- 12.4 If:
- 12.4.1 the consultation required by paragraph 12.2 has taken place and the dispute remains unresolved;
  - 12.4.2 the Councils are unable to reach agreement to proceed with mediation; or
  - 12.4.3 following such mediation the dispute remains unresolved,
- any Council may refer the matter for expert determination.
- 12.5 An expert (“Expert”) is a person appointed in accordance with paragraph 12.6 to resolve a dispute arising in relation to the quantum of the retention made pursuant to paragraph 7.5.
- 12.6 The Councils shall agree on the appointment of an independent Expert and shall agree with the Expert the terms of their appointment.
- 12.7 If the Councils are unable to agree on the identity of the Expert or the terms of their appointment within seven days of a Council serving details of a suggested expert on the others, any Council shall be entitled to request the President of the Chartered Institute of Arbitrators to appoint an Expert with experience in determining the quantum of costs.
- 12.8 The Councils are entitled to make submissions to the Expert and will provide (or procure that the other Councils provide) the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision.
- 12.9 The Expert shall act as an expert and not as an arbitrator. The Expert shall provide to all the Councils his written decision on the dispute, within 28 days of appointment (or such other period as the Councils may agree). The Expert’s written decision on the matters referred to them shall be final and binding on the Councils in the absence of manifest error or fraud
- 12.10 Each Council shall bear its own costs relating to the reference of the Dispute to the Expert. The Expert’s fees and any costs properly incurred by them in arriving at their determination (including any fees and costs of any advisers appointed by the Expert) shall be borne by the Councils equally or in such other proportions as the Expert shall direct.




12.11 The Councils shall continue to comply with, observe and perform all their obligations hereunder regardless of the nature of the Dispute and notwithstanding the referral of the Dispute under this paragraph 12 and shall give effect forthwith to every decision of the Expert.



**SCHEDULE 1 – Extract from HIG Bid - Plan indicating the infrastructure to be funded by the HIG, Developer and the RIF**



1. Expansion of Central Crossing to extend Sustainable Transport Corridor (STC) between Gilston Area and Railway Station and Burnt Mill Roundabout.
2. Eastern Stort River Crossing (comprising Items 2a, 2b and 2c below)
  - 2a. Realignment of the Eastwick Road and new junction allowing access to Terlings Park and Pye Corner.
  - 2b. Pye Corner bypass including junction between north-south section and east-west section
  - 2c. Remainder of Eastern Crossing including River Way Bridge
3. Extension of STC from Burnt Mill Roundabout through the Town Centre.
4. Enhanced sustainable transport hub in Village 1.
5. Access to Gilston Area Village 2.
6. Access to Gilston Area Village 1 (north of Eastwick junction) and creation of STC link within Village 1.
7. Gilston Area STC "inner loop" connection to Villages 3, 4, 5
8. Access to Village 7.
9. Gilston Area STC "inner connection" opening up sustainable access and highway between Village 7 and Village 1.
10. Replacement of Central Crossing Rail Bridge.
11. Eastern STC between Town Centre, Enterprise Zones and Harlow East Garden Community.
12. Western STC between Town Centre, PHE/Pinnacles and Water Lane Garden Community.
13. Southern STC between Town Centre and Lattin Priory Garden Community.

-  Funded by the HIF
-  Funded by the Developers
-  Funded by rolling infrastructure fund

## SCHEDULE 10

### JOINT COMMITTEE TERMS OF REFERENCE

#### 1. The Partner Authorities:

- (1) East Hertfordshire District Council (“**EHDC**”)
- (2) Epping Forest District Council (“**EFDC**”)
- (3) Harlow District Council (“**HDC**”)
- (4) Essex County Council (“**ECC**”)
- (5) Hertfordshire County Council (“**HCC**”)

#### 2. Status:

- 2.1. The Partner Authorities are local authorities for the purposes of the Local Government Act 1972 and best value authorities for the purposes of the Local Government Act 1999.
- 2.2. Under section 102 (1) (b) of the Local Government Act 1972 and Regulations 10 and 11 of The Local Authorities (Arrangements for the Discharge of Functions) England Regulations 2012, local authorities may arrange for the discharge of their functions by a Joint Committee comprising members of their authorities.
- 2.3. All of the Partner Authorities have introduced Executive Arrangements under section 9EA of the Local Government Act 2000.
- 2.4. The Executives of each of the Partner Authorities have agreed to establish a Joint Committee for the purposes of section 101 of the Local Government Act 1972 to be known as the Joint Committee for the Harlow and Gilston Garden Town (the “Joint Committee”).
- 2.5. The Partner Authorities have agreed to form a Joint Committee to co-ordinate and facilitate the delivery of 16,000 homes in the HGGT by 2033, and 7,000 homes in the years after that along with associated infrastructure.
- 2.6. The Joint Committee and its proceedings are bound by the provisions of Schedule 12 of the Local Government Act 1972 but shall be expected to operate in accordance with the local arrangements set out in these Terms of Reference.
- 2.7. The only functions exercisable by the Joint Committee are those set out in Appendix 3 to these Terms of Reference.
- 2.8. The Accountable Body will act as the ‘accountable body’ for the Joint Committee and any sub-committee. The Accountable Body will provide secretariat support and accountable body services to the Joint Committee and any sub-committee as set out in an Inter-Authority Agreement dated on or about the date of this Agreement.

### 3. Definitions

**Functions** means the functions exercised by the Joint Committee as set out in Appendix 3 to these Terms of Reference.

**Independent Facilitator** means a member of the HGGT Delivery team employed or contracted for the purposes of supporting the Chair and facilitating meetings of the Joint Committee.

**Inter-Authority Agreement** means this Agreement to which these Terms of Reference are a schedule to that sets out the services which the Accountable Body will deliver to the Joint Committee and the respective role and responsibilities of the Partner Authorities in respect of associated matters related to the application and allocation of the Project Funding and Recoverable Cost Funding.

**Local Plans** means the adopted local plans prepared by a local planning authority in consultation with its community and which form part of the statutory development plan.

**Reserved Decisions** has the meaning given to it in paragraph 4.6.

### 4. Joint Committee

4.1. This Agreement sets out how the Joint Committee shall operate in seeking to deliver the overarching purpose, the functions it holds, and how decisions are made and procedures are followed to ensure that the Joint Committee operates efficiently, effectively and is both transparent and accountable.

4.2. The remit of the Joint Committee is to jointly discharge the functions (“Functions”) set out in Appendix 3 to these Terms of Reference in relation to the HGGT, the exercise of which have been delegated to the Joint Committee by the Partner Authorities subject to the limitation set out in paragraph 4.6.

4.3. The purpose of the Joint Committee is to provide the unified leadership required to deliver the ambitious spatial growth proposals set out in the Local Plans of HDC, EHDC and EFDC, supported by ECC and HCC to align and maximise the opportunities for new residents and the existing residents and communities in Harlow, Epping Forest and East Hertfordshire.

4.4. The Joint Committee will oversee the vision for the HGGT in order to maximise the opportunities for new residents in the HGGT and existing residents in the surrounding area recognising that, through a collaborative approach, the Partner Authorities will be best placed to deliver their vision for the HGGT promoting healthy and sustainable growth with ambitious net zero targets.

4.5. The primary aims of the Joint Committee will be to:

- 4.5.1. develop, approve and maintain a vision for the HGGT;
- 4.5.2. develop and maintain an overview of the delivery of the vision for the HGGT;
- 4.5.3. monitor and report to the Partner Authorities on progress against the master programme of delivery;

- 4.5.4. receive information on a quarterly basis regarding programme delivery;
  - 4.5.5. have an overall view on milestones and dependencies;
  - 4.5.6. maintain oversight of the strategic risks of delivery and develop mitigations as necessary;
  - 4.5.7. develop a strategy for the RIF including monitoring the spend of payments from the RIF; and
  - 4.5.8. receive updates and reports from the Partner Authorities in respect of (but not exclusively) the areas below which are deemed critical to the success of the HGGT:
    - Modal Shift, Transport Infrastructure and Sustainable Transport Corridors
    - RIF
    - Planning Policy, Infrastructure & Developer Contributions
    - Economy & Jobs
    - Town Centre Regeneration
    - Housing
    - Communication and Community Engagement
    - Green and Blue Infrastructure
    - Stewardship
    - Programme Management.
- 4.6. Decisions which a Partner Authority is required to make in accordance with its own constitution are “Reserved Decisions” and must be referred back to the Partner Authorities for decision within such timescales as the Joint Committee may by written resolution determine or, in the absence of the same, within twelve (12) weeks. The Partner Authorities acknowledge that:
- 4.6.1. any decisions which are inconsistent with any Partner Authority’s budget and/or policy frameworks (without limitation) are Reserved Decisions;
  - 4.6.2. any decisions that result in the delegation of the transport and highways powers vested in ECC and HCC as highways authorities are Reserved Decisions;
  - 4.6.3. agreement to the strategy for the RIF is a Reserved Decision; and
  - 4.6.4. agreement by a Partner Authority to the Partner Authority Contribution is a Reserved Decision.
- 4.7. Any decision of the Joint Committee in relation to a Reserved Decision will not take effect or be deemed to take effect at any time unless and until it has been approved and ratified by all the Partner Authorities.

## 5. Term

- 5.1. The Joint Committee shall come into effect from the date upon which the Inter-Authority Agreement is signed on behalf of all Partner Authorities.
- 5.2. The Partner Authorities intend for the Joint Committee to be in place until at least 2033.
- 5.3. Subject to paragraph 5.4 an individual Partner Authority must give notice of at least twelve (12) months (or such shorter period as the parties may agree) of its intention to leave the Joint Committee and exit the terms of the Inter-Authority Agreement.

5.4. In the event that the Chair exercises his or her casting vote in a way that an individual Partner Authority disagrees with then such Partner Authority shall have the right to leave the Joint Committee and exit the terms of the Inter-Authority Agreement within three (3) months of providing notice of the same to the Chair.

## **6. Review of these Terms of Reference**

6.1. The Joint Committee is required to undertake a review of these Terms of Reference:

6.1.1. at least every five (5) years;

6.1.2. whenever a Partner Authority gives notice of withdrawal under paragraph 5.3 or paragraph 5.4; or

6.1.3. at such times as a Partner Authority may request on reasonable notice.

## **7. Executive Officer Group**

7.1. The Executive Officer Group will be chaired by the HGGT Director (or, in exceptional circumstances, the HGGT Director's deputy).

7.2. The Executive Officer Group will consist of a senior officer representative from each Partner Authority (or, in exceptional circumstances, such senior officer's deputy).

7.3. The Executive Officer Group will prepare all papers going before the Joint Committee.

7.4. The Executive Officer Group will be delivery focussed providing coordination and enabling services to the Joint Committee.

7.5. The Executive Officer Group will provide annual reports on activity to the Joint Committee.

## **8. Membership**

8.1. The Joint Committee shall consist of one elected councillor appointed by each Partner Authority in accordance with that Partner Authority's constitution. To be eligible for membership of the Joint Committee, a councillor must either be: (i) a member of the Cabinet of his/her appointing authority; or (ii) a relevant Portfolio Holder within his/her appointing authority; or (iii) an appointed deputy to either the Leader or a member of the Cabinet with relevant portfolio of his/her appointing authority.

8.2. Each Partner Authority may appoint a substitute. The substitute may attend any meeting of the Joint Committee or any of its sub-committees and may vote in place of that Partner Authority's principal member if notice that the substitute will attend and vote is given to the Secretary of the Joint Committee by the Partner Authority concerned in advance of such meeting.

- 8.3. Where a substitution notice is in effect with respect to a particular member at a particular meeting, the substitute shall be a full member of the Joint Committee for the duration of the meeting in place of the principal member.
- 8.4. Each Partner Authority may remove its appointed member and appoint a different member by giving written notice to the Secretary to the Joint Committee.
- 8.5. Each appointed member shall be entitled to remain on the Joint Committee for so long as the appointing Partner Authority so wishes.
- 8.6. Any casual vacancies will be filled as soon as reasonably practicable by the Partner Authority from which such vacancy arises giving written notice to the Secretary to the Joint Committee.

## **9. Co-Opted Members**

- 9.1. The Joint Committee may co-opt any other person whom it thinks fit to be a non-voting member of the Joint Committee. The Joint Committee may from time to time make rules as to:
  - 9.1.1. registration and declaration of interests by co-opted members; and
  - 9.1.2. standards of behaviour required to be observed by co-opted members when acting as such.

## **10. Chair, Vice-Chair and Independent Facilitator**

- 10.1. The Chair of the Joint Committee will be appointed by the members of the Joint Committee at its first meeting. The Chair of the Joint Committee shall hold that office until another member is appointed. The appointment of the Chair shall take place annually by the Joint Committee, beginning with the first annual meeting with subsequent appointments falling not later than twelve (12) months after the first annual meeting of the Joint Committee in the relevant years.
- 10.2. The Vice-Chair of the Joint Committee will be appointed from time to time by the members of the Joint Committee. The Vice-Chair of the Joint Committee shall hold that office until another member is appointed. The appointment of the Vice-Chair shall take place annually, beginning with the first annual meeting.
- 10.3. The Vice-Chair shall preside in the absence of the Chair. If there is a quorum of members present but neither the Chair nor the Vice-Chair is present at a meeting of the Joint Committee, the other members of the Joint Committee shall choose one of the members of the Joint Committee to preside at the meeting.
- 10.4. An independent facilitator may be appointed by the Joint Committee and co-opted to the Board on a three (3) year term. The Independent Facilitator will not have voting rights. The Independent Facilitator will assist in the facilitation of meetings by reviewing the draft agenda, facilitating the meetings, monitoring progress of the outcomes of the Joint Committee and working closely with the members of the Joint Committee to ensure the outcomes of the Joint Committee are met.

## **11. Secretarial**



11.1. The Accountable Body shall nominate a person to undertake the role of the Secretary of the Joint Committee. The Joint Committee shall be provided with the following secretariat support:

11.1.1. putting together of the agendas for meetings;

11.1.2. gathering of reports from the report writers;

11.1.3. publishing of the agenda(s) with the reports through the ModGov portal of the Accountable Body;

11.1.4. notifying the Democratic Services Manager of the other Partner Authorities of the link to the Joint Committee papers;

11.1.5. attendance at four (4) Joint Committee board meetings per year in person;

11.1.6. providing constitutional advice and guidance to the Joint Committee at those meetings;

11.1.7. production of actions, decisions and minutes from the Joint Committee; and

11.1.8. publication of actions, decisions and minutes from the Joint Committee on the ModGov portal of the Accountable Body.

## **12. Sub-Committees and Working Groups**

12.1. The Joint Committee may appoint such sub-committees from among its membership as it thinks will help it to enable it to fulfil its remit. The Joint Committee may delegate its responsibilities to such sub-committees. Sub-Committees may co-opt non-voting members.

12.2. The Joint Committee may set up working groups to advise it on matters within its remit. Such working groups may be formed of members or officers of the constituent Partner Authority or any other third party as the Joint Committee sees fit. Such working groups are advisory only and the Joint Committee may not delegate its responsibilities to such working groups.

## **13. Code of Conduct**

13.1. Each member of the Joint Committee and any Sub-Committee shall comply with any relevant code of conduct of their Partner Authority when acting as a member of the Joint Committee.

## **14. Notice of Business**

14.1. The Chair may direct the Secretary to the Joint Committee to call a meeting and may require any item of business to be included in the summons.

14.2. Any four (4) members of the Joint Committee may by notice in writing require the Chair to call a meeting to consider a particular item of business and if the Chair fails to do so within 20 working days of receipt of the notice then those four (4) members

may direct the Secretary to the Joint Committee to call a meeting to consider that business.

## **15. Time and Place of Meetings**

- 15.1. All meetings of the Joint Committee will take place on a date and time that the Joint Committee shall determine. It is the expectation of the Partner Authorities that most meetings will be held in the evenings.
- 15.2. All meetings of the Joint Committee will take place at the offices of Harlow District Council unless otherwise agreed by the Joint Committee.
- 15.3. The Joint Committee may, if the law permits, arrange for attendance at meetings via video conferencing. Any such attendance shall be in accordance with the law and any other requirements imposed by the Joint Committee from time to time.
- 15.4. Any Section 151 Officer or Monitoring Officer is entitled to attend all parts of all meetings of the Joint Committee or of any sub-committee appointed by the Joint Committee.

## **16. Frequency of Meetings**

- 16.1. The Joint Committee will meet at least four (4) times per year including the annual meeting.

## **17. Notice of and Summons to Meetings**

- 17.1. The Secretary to the Joint Committee will give notice to the public of the time and place of any meeting in accordance with Part VA of the Local Government Act 1972. At least five (5) clear days before a meeting, the Secretary to the Joint Committee will send a summons by email and, if a member of the Joint Committee so requests, by post to every member at their last known address. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## **18. Quorum**

- 18.1. The quorum of a meeting will be the 5 members who are entitled to attend and vote.
- 18.2. If there is no quorum present at the start of the meeting, the meeting may not commence. If after one (1) hour from the time specified for the start of the meeting no quorum is present, then the meeting shall stand adjourned to another time and date determined by the Secretary to the Joint Committee.

## **19. Voting**

- 19.1. Each elected member shall have one vote.

- 19.2. Co-opted members and the Independent Facilitator will not have a vote.
- 19.3. Any matter will be decided by a simple majority of those members of the Partner Authorities represented in the room at the time the question is put. In the event of equality of votes the person presiding at the meeting will be entitled to a casting vote under sections 39(1) and 44 of Schedule 12 of the Local Government Act 1972.
- 19.4. The members will agree a way of working protocol with the aim of ensuring that decisions should only be put to the vote if such decision is likely to result in at least four votes in favour. In the event of any conflict between this paragraph and paragraph 19.3 above, paragraph 19.3 will take precedence.
- 19.5. The member appointed as a substitute shall have the same voting rights as the member for whom he or she is substituting. Where notice of substitution has been given for a particular meeting, the principal member may not vote unless the notice of substitution is withdrawn before the start of the meeting.
- 19.6. The Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.
- 19.7. The minutes of the meeting shall record how a member of the Committee voted on a particular question if, at the time that the vote is taken or immediately thereafter, that member asks the Secretary to the Joint Committee or his or her representative at the meeting to record his vote.

## **20. Minutes**

- 20.1. The Secretary to the Joint Committee shall arrange for written minutes to be taken at each meeting of the Joint Committee and shall present them to the Joint Committee at its next meeting for approval as a correct record. At the next meeting of the Joint Committee, the Chair shall move that the minutes of the previous meeting be signed as a correct record. If this is agreed, the Chair of the Joint Committee shall sign the minutes.
- 20.2. Draft minutes or a summary of the decisions taken at the meeting and a note of the actions arising shall be circulated to the Joint Committee and to each Partner Authority by email no later than seven (7) working days after the date of the meeting.
- 20.3. Minutes of the meeting shall be published by the Accountable Body to the extent required by Part VA of the Local Government Act 1972.

## **21. Access for Elected Members of the Partner Authorities**

- 21.1. Any elected member of the Partner Authorities who is not a member of the Joint Committee may speak at a meeting of the Joint Committee if the Chair of the Joint Committee invites him or her to do so but an elected member of the Partner Authorities who is not a member of the Joint Committee shall not be entitled to vote at a meeting of the Joint Committee.

## **22. Public Access**

- 22.1. Meetings of the Joint Committee shall be open for members of the public to attend unless the Joint Committee determines that it is necessary to exclude members of the public in accordance with Part VA of the Local Government Act 1972 or the Joint Committee determines that it is necessary to close the meeting to the public because of a disturbance.
- 22.2. Copies of the agenda for meetings of the Joint Committee and any reports for its meetings shall be open to inspection by members of the public at the offices of the Partner Authorities with the exception of any report which the Secretary to the Joint Committee determines relates to items which in his or her opinion are likely to be considered at a time when the meeting is not to be open to the public.
- 22.3. If a member of the public interrupts proceedings, the Chair will warn the person concerned. If that person continues to interrupt, the Chair will arrange for that person to be removed from the meeting room and will suspend the meeting until the member of the public has left or been removed.
- 22.4. If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

### **23. Communications**

The Joint Committee may agree a protocol for communications.

### **24. Overview and Scrutiny**

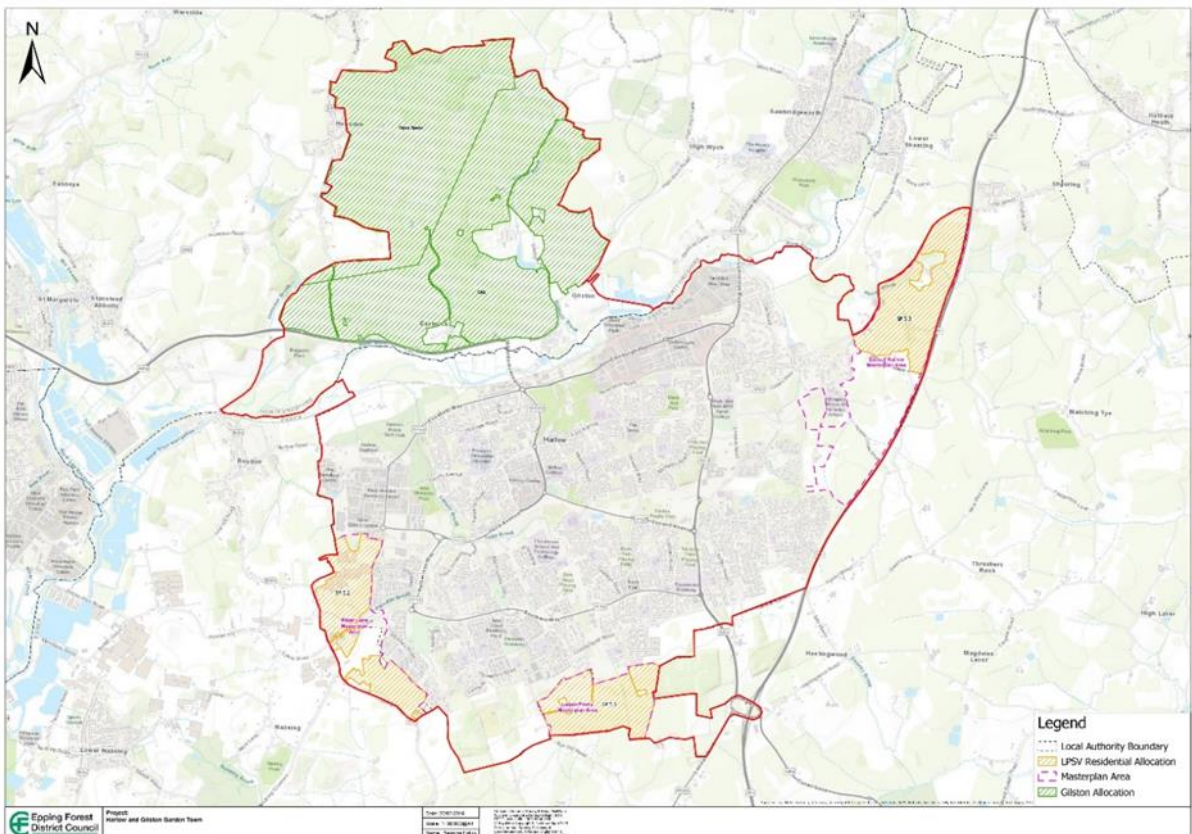
- 24.1. Each Partner Authority has overview and scrutiny committees which have the right to scrutinise the operation of the Joint Committee. The Joint Committee and the Accountable Body will co-operate with reasonable requests for information from any of the Partner Authorities' overview and scrutiny committees.
- 24.2. The Partner Authorities acknowledge that decisions of the Joint Committee shall be subject to call-in to comply with the Partner Authorities' legal duty to enable scrutiny of decisions.
- 24.3. The Partner Authorities agree that if an overview and scrutiny committee of any Partner Authority wishes to call-in a decision of the Joint Committee, it can do so subject to the normal procedures of that Partner Authority.
- 24.4. If any decision of the Joint Committee is subject to call-in by any Partner Authority:
- 24.4.1. the relevant Partner Authority shall notify the Secretary of the call-in as soon as reasonably possible;
  - 24.4.2. the Secretary shall notify all other Partner Authorities of the call-in as soon as reasonably possible; and
  - 24.4.3. the relevant Partner Authority shall notify the Secretary and each of the other Partner Authorities of the outcome of the call-in (and shall provide a copy of any report produced by the relevant overview and scrutiny committee to the Secretary and the other Partner Authorities) as soon as reasonably possible.

- 24.5. At the request of the HGGT Director, each Partner Authority and the Accountable Body shall ensure that appropriate officers attend any meeting of an overview and scrutiny committee which is considering matters falling within the remit of these Terms of Reference, regardless of which Partner Authority's overview and scrutiny committee has called-in the decision.
- 24.6. The Joint Committee will receive and consider any report or recommendations of any overview and scrutiny committee at a special meeting to be called as soon as reasonably possible after receipt of the same.
- 24.7. If the Joint Committee considers that a decision it has taken should be deemed urgent and in need of immediate implementation, the Joint Committee may recommend that each Partner Authority waive application of its call-in procedure in relation to that decision. Whether or not such a waiver is granted by a Partner Authority will be determined by the applicable rules of that Partner Authority.
- 24.8. The Joint Committee acknowledges that the Partner Authorities' audit teams and external auditors shall be entitled to access all relevant documents and records for conducting audits related to the operation of the Joint Committee.

## 25. Regulation of Business

- 25.1. Any ruling given by the Chair as to the interpretation of these Terms of Reference with respect to the regulation of proceedings at a meeting shall be final.
- 25.2. Subject to the law, the provisions of these Terms of Reference and the Inter-Authority Agreement and the terms of any contract, the Joint Committee may decide how it discharges its business.

## Appendix 1 HGGT Area



## Appendix 2

Except to the extent that such adoption is a Reserved Decision, the Joint Committee will on behalf of all Partner Authorities adopt key strategies and policies relating to the Garden Town including but not exclusively:

1. HGGT Vision
2. Economic Growth Strategy
3. Transport Strategy
4. Housing Strategy
5. Stewardship Strategy
6. Parking Strategy
7. Green and Blue Infrastructure Strategy
8. Rolling Infrastructure Fund
9. Design Guide
10. Sustainability
11. IDP refresh (bi-annual)
12. Land Assembly Strategy
13. Master plans (input and or design) for endorsement

## Appendix 3 Functions of the Joint Committee

### General Principles

Each Partner Authority will transfer the functions listed below, whether they are currently exercised by the executive or cabinet, individual members of the executive or officers within the Partner Authorities. This will include the authority to make key decisions in respect of these functions.

The functions of the Board are set out below and fall into the following categories:

**“Approve / Approval”** meaning that the Joint Committee has delegated authority from the Partner Authorities to make a decision on the matter before the Joint Committee, such decision to bind the Partner Authorities without further recourse to the Partner Authorities individually except where such matter is a Reserved Decision.

**“Recommend / Recommendation”** meaning that the Joint Committee has the remit to scrutinise, comment and make representations in relation to the matter before the Joint Committee, such as recommendations to be made to any or all of the Partner Authorities. Each Partner Authority will make its own decision as to whether to adopt such recommendation.

**“Overview and Awareness”** meaning the Joint Committee has the remit to review and consider matters, and for relevant information to be supplied in order for the Joint Committee to inform an overall Master Programme for the HGGT, identify interdependencies and risks, and make recommendations to any or all of the Partner Authorities.

**“Consultation”** meaning the Partner Authorities are added to consultation lists where other proposals, policies or plans affect the HGGT Area and that the Joint Committee consults with other Partner Authorities on HGGT matters that may affect them. Where the Joint Committee is able to be consulted and submit representations to local strategies, it might be necessary for the Partner Authorities that has prepared that document to remove their name from the response.

In accordance with the above, the Joint Committee has delegated authority to exercise the following functions:

### **HGGT Vision and Area**

1. To approve the HGGT Vision and any changes to the HGGT Vision.
2. To make recommendations to the Partner Authorities to amend the HGGT Area, being the red line boundary as set out in Appendix 1 to these Terms of Reference and to have the ability to revise it as necessary as the HGGT project progresses.

### **Funding**

3. To recommend the level of Partner Authority Contribution requested from each Partner Authority as a member of the Joint Committee to support its work.

## Programme Management

4. To approve, develop and maintain the Master Programme for delivery of the HGGT which sets out the overarching programme plan of key activities required to deliver the HGGT Vision, in particular housing and infrastructure.
5. To identify interdependencies and risks to the Master Programme along with mitigating actions to make recommendations to Partner Authorities as appropriate.
6. To make recommendations to Partner Authorities to maintain progress against the Master Programme.
7. To approve, develop and maintain a Forward Plan for all key decisions. Key decisions are any decisions of the Joint Committee which;
  - a. result in total expenditure or savings of £200,000 revenue funding or £2,000,000 capital funding;
  - b. significantly affect residents of more than 1 ward of the partner authorities.
8. No key decision will be made unless 28 days' notice of the making of the decision has been published in the forward plan unless:
  - a. the proper officer considers that giving 28 days' notice is not possible, has given notification to the chairs of the relevant overview and scrutiny committee of each of the Partner Authorities and published a notice of the intention to make the decision 5 days prior to the decision being made; or
  - b. if it is impracticable to comply with (a) above the proper officer has obtained the agreement of all five (5) Chairs of the relevant overview and scrutiny committees or, in their absence the Mayor or Chairmen of the five Partner Authorities.

In either case the proper officer must publish a notice of the reasons for the decision being made without giving 28 days' notice in the forward plan

## Rolling Infrastructure Fund (RIF)

9. Not used.
10. To develop and approve a strategy for the establishment and management of the RIF (the "RIF Strategy") including identification of the accountable body, monitoring receipts, agreeing spend, exploring commercial and investment options, and a process to forward fund infrastructure through borrowing in advance of contributions.
11. To manage and oversee the expenditure and activity from the RIF.
12. Not used
13. To allocate RIF funding to the Partner Authorities and approve the terms of such funding.
14. To implement the RIF Strategy providing leadership across the HGGT Area.
15. To ensure appropriate public expenditure controls and governance is in place to manage and control the RIF.

## **Modal Shift, Transport Infrastructure and Sustainable Transport Corridors**

16. To develop, approve and update the transport strategy relating exclusively to the HGGT Area (the “Transport Strategy”).
17. To oversee the implementation of the Transport Strategy providing leadership across the HGGT Area.
18. To be consulted on relevant strategies and policies and initiatives of the Partner Authorities in relation to transport where it affects the HGGT Area.
19. To develop and recommend an operating model for public transport that can work across Partner Authorities administrative boundaries to provide a coherent system for customers and residents.
20. To make recommendations to any or all Partner Authorities concerning any transport matters exclusively or significantly impacting the HGGT including but not limited to strategies, plans, programmes, policies or projects.
21. To develop and maintain an overarching programme plan of key activities required to deliver modal shift, including the transport infrastructure identified for the HGGT Area such as the Sustainable Transport Corridors, and making recommendations to any or all of the Partner Authorities on strategic alignment and delivery progress.
22. For clarification, nothing in the Joint Committee’s remit is intended to nor will be interpreted as overriding or amounting to a delegation of the transport, highways or flood risk powers vested in ECC and HCC as local transport authorities, highway authorities or lead local flood authorities.

## **External Funding Applications**

23. To identify and recommend to any or all of the Partner Authorities that an application be made for external funding (including grant funding) where such funding could, in the opinion of the Joint Committee, be used to support the HGGT noting that such Partner Authorities will be obliged to comply with the terms associated with such funding and take its own decision as to whether to apply for and accept such funding.

## **Planning Policy, Infrastructure and Developer Contributions**

24. To develop, approve and maintain:
  - planning strategies, plans and programmes exclusively impacting the HGGT as set out in Appendix 2 (excluding masterplans which shall be endorsed by the Joint Committee)
  - design guides
  - sustainability guidance
  - infrastructure development plans including refresh
  - S106 planning obligations guidance
  - economic growth strategies
  - housing strategies
  - excluding:
    - development plan documents
    - Supplementary Planning Documents and Supplementary Plans

- Housing Strategies adopted by Local Housing Authorities

provided that the documents, guides, strategies and guidance listed in this paragraph 22 shall not override any other documents, guides, strategies and guidance issued by any of the Partner Authorities which shall remain material considerations for each Partner Authority when exercising its planning functions.

25. To make recommendations in respect of any spatial development plan being prepared by any Partner Authorities individually.

### **Economy and Jobs**

26. To develop and approve an economic growth strategy for the HGGT Area to create inclusive and sustainable economic growth for the HGGT that focuses on economic regeneration, renewal and growth and skills in Harlow and its hinterland (the “Economic Growth Strategy”).
27. To oversee the implementation the Economic Growth Strategy providing leadership across the HGGT Area, working in partnership with the wider functional economic area as necessary to achieve the aims.
28. To be consulted on relevant strategies and policies and initiatives of the Partner Authorities in relations to economic development where it affects the HGGT Area.

### **Harlow Town Centre Regeneration**

29. To be consulted on masterplans, design briefs, development briefs, funding bids and planning applications relating to major developments in Harlow Town Centre.
30. To make recommendations to HDC in relation to the above in connection with interdependencies with the HGGT Programme.
31. To receive regular reports and not less than twice a year on the progress of the regeneration of Harlow Town Centre and provide comment on this to HDC.

### **Housing**

32. To consider and make recommendations to the Local Housing Authorities on their respective Housing Strategies.
33. To identify ways in which the development of the HGGT strategic sites can contribute to the renewal of existing neighbourhoods in Harlow and satisfy the housing need of the whole HGGT Area.

### **Green & Blue Infrastructure**

34. To develop and approve a Green and Blue Infrastructure Strategy for the HGGT Area.
35. To implement the Green and Blue Strategy providing leadership across the HGGT Area.

36. To be consulted on relevant strategies and policies and initiatives of the Partner Authorities in relations to Green and Blue Infrastructure where it affects the HGGT Area.

### **Stewardship**

37. To develop and approve a stewardship strategy for the HGGT Area to create legacy arrangements for the management of infrastructure for those communities within the HGGT (the “Stewardship Strategy”).
38. To implement the Stewardship Strategy providing leadership across the HGGT Area.
39. To be consulted on relevant strategies and policies and initiatives of the Partner Authorities in relations to stewardship where it affects the HGGT Area.

### **Community Engagement & Communications**

40. To develop, approve and maintain a Communication and Engagement Strategy for the HGGT initiative.
41. To implement the communication and engagement strategy providing leadership across the HGGT Area.
42. To receive reports on Quality of Life indicators in Harlow and the new neighbourhoods on a regular basis.

### **HGGT Vision Assurance and Role of Independent Quality Review Panel**

43. To establish and approve a Quality Review Panel (“QRP”) to provide independent, objective, expert advice on master planning and planning applications for development proposals across the HGGT on the agreed terms of reference which can be found via the following link: [2022 Frame Harlow-and-Gilston-QRP ToR.pdf](https://www.hggt.co.uk/2022-Frame-Harlow-and-Gilston-QRP-ToR.pdf) ([hggt.co.uk](https://www.hggt.co.uk)).
44. To oversee the effectiveness of the QRP.
45. To receive regular updates reports on the commissioning, remit, performance and outputs of the QRP.

### **Oversight Process for Strategic Masterplans and Planning Applications in the HGGT**

46. To make recommendations to provide effective vision assurance and ensure the consistent application of the HGGT Vision, Garden Town Principles, and oversight of emerging masterplans for sites forming part of the HGGT during early formative stages.
47. The Joint Committee will:
  - a. receive and consider regular update reports as to progress and / or completion of current strategic master-planning work;

- b. receive briefings on any masterplan for the HGGT prior to any decision by the relevant Local Planning Authority that the strategic master plan can be endorsed for consultation or approved;
- c. comment and make representations to the relevant Local Planning Authority in relation to any master plans;
- d. make recommendations in respect of planning applications for strategic sites within the HGGT. The Joint Committee will be consulted by the Local Planning Authority and will provide a response to ensure that the relevant Garden Town Principles, the HGGT Vision, and any other relevant guidance are considered by the Local Planning Authority.

**SCHEDULE 11**  
**GOVERNANCE STRUCTURE**

