

### **3.8 Council Procedure Rules**

3.8.1 Ordinary Meetings of the Council will usually take place at least four times a year, commencing at 7:00pm, or at another time agreed by the Chairman.

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

3.8.3 There are three types of Council meetings:

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

These are dealt with in more detail below.

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

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

- 3.8.6 The Proper Officer is authorised to cancel a meeting where the agenda has already been issued if it is considered expedient. Before exercising this authority, the Proper Officer will consult with the Chairman and the Leader of the Council. Any outstanding business will be held over to the next Ordinary Meeting or an Extraordinary Meeting on a date to be arranged.
- 3.8.7 The council may make audio and/or visual recordings of meetings and broadcast or otherwise make them available to the public on its website or by other means.

### **3.9 Annual Meeting of the Council**

- 3.9.1 The Annual Meeting of the Council will be held:
- (a) in a year when there is an ordinary election of councillors to the Council, on such a day within the 21 days immediately following the day of retirement of the outgoing councillors as the Council may fix;
  - (b) in any other year, on such a day in the month of March, April or May as the Council may fix; and
  - (c) at such hour as the Council may fix.
- 3.9.2 At the Annual Meeting, the Council will:
- (a) elect a person to preside if the retiring Chairman and Vice Chairman are not present;
  - (b) elect the Chairman for the ensuing year;
  - (c) appoint the Vice Chairman of council for the ensuing year;
  - (d) approve the minutes of the last meeting;

- (e) receive any announcements from the Chairman; and/or Head of Paid Service;
- (f) receive any announcements from the Officer advising the Chairman including apologies for absence;
- (g) elect the Leader at the post-election annual meeting;
- (h) if necessary, be told by the Leader about the composition and constitution of the Executive for the ensuing year, and the names of Members chosen to be Executive Members;
- (i) determine the Council's Committee structure and Chairmen/membership;
- (j) determine arrangements for Outside Bodies and receive annual updates on outside body activities;
- (k) appoint at least one scrutiny Committee, a Committee to carry out the functions of a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions;
- (l) agree the scheme of delegation;
- (m) approve a programme of Ordinary Meetings of the Council for the year; and
- (n) consider any business set out in the notice convening the meeting.

### 3.9.3 Selection of Members on Committees and Outside Bodies

At the annual meeting, the Council meeting will:

- (a) decide which Committees to establish for the Civic Year;
- (b) decide the size and terms of reference for those Committees;
- (c) decide the allocation of seats and substitutes to political groups in accordance with the political balance rules;
- (d) receive, or arrange the delegation of, nominations of Members to serve on each Committee and any outside body for which a new appointment or re-appointment is required.

### **3.10 Ordinary Meetings**

3.10.1 Ordinary Meetings of the Council will usually take place at 7.00 pm, or at any other time agreed by the Chairman, in accordance with the programme previously approved by the Council.

3.10.2 The order of business at every Ordinary Meeting of the Council will include:

- (a) electing a person to preside if the Chairman and Vice Chairman are not present;
- (b) dealing with any business required by law to be dealt with first;
- (c) confirming as a correct record and signing the minutes of the last meeting of the Council, except that minutes of the annual or Extraordinary Meeting

will be submitted for confirmation to the next Ordinary Meeting of Council;

- (d) the Chairman's announcements;
- (e) the Leader's announcements;
- (f) any announcements from the Officer advising the Chairman (including apologies for absence);
- (g) receiving any declarations of interests from Members;
- (h) receiving any petitions in accordance with the Petition Scheme at paragraph 3.17 to these rules;
- (i) receiving and answering questions from members of the public in accordance with paragraph 3.18 below;
- (j) receiving and answering questions on notice from Members in accordance with paragraph 3.19 below;
- (k) dealing with any business remaining from the last Council meeting in accordance with paragraph 3.16;
- (l) receiving reports from the Executive and from the Council's scrutiny and other Committees and receiving questions and answers on any of those reports;
- (m) receiving reports, questions and answers on the business of joint arrangements and external organisations as appropriate;
- (n) considering any motions under paragraph 3.20 in the order in which they are received;

- (o) considering any other business specified in the summons to the meeting.

3.10.3 The order of business (except for items (a), (b) and (c) of paragraph 3.10.2 of these Rules) may be changed:

- (a) before or at a meeting, as the Chairman sees fit; or
- (b) by a resolution of the meeting passed on a motion under paragraph 3.21.

### **3.11 Extraordinary Meetings**

3.11.1 An Extraordinary Meeting is one that is additional to the scheduled Ordinary Meetings and is called to deal with matters that cannot conveniently be dealt with at one of those meetings. An Extraordinary Meeting will be called for specific purposes. Those listed below may request the Chief Executive to call extraordinary Council meetings in addition to Ordinary Meetings:

- (a) the Council, by resolution;
- (b) the Chairman of the Council;
- (c) the Monitoring Officer;
- (d) the Section 151 Officer; and
- (e) in accordance with paragraph 3 of Schedule 12 of the Local Government Act 1972 (as amended), any five Members of the Council if they have signed a requisition presented to the Chairman of the Council and they have refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

- 3.11.2 Extraordinary Meetings will:
- (a) elect a person to preside if the Chairman and Vice Chairman are not present;
  - (b) receive any declarations of interest; and
  - (c) deal with the business for which the Extraordinary Meeting was called.

### **3.12 Appointment of substitute Members of Committees and Sub-Committees**

- 3.12.1 As well as allocating seats on Committees and Sub-Committees, the Council will allocate seats in the same manner for substitute Members. Up to six named substitute Members per political group will be permitted for any Committees, joint and Sub-Committees having 10 or more Members, and up to three named substitutes per political group will be permitted for Committees, joint and Sub-Committees having fewer than 10 Members. For Committees or Sub-Committees exercising the functions of development management, licensing or appeals, only Members who have received satisfactory training to enable proper and lawful discharge of the functions may be appointed as substitutes.
- 3.12.2 In the case of Sub-Committees, the appointing committee will determine the number of substitutes and appoint them. Substitute Members must be from the same political group as the absent Member.
- 3.12.3 Substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

3.12.4 Substitute Members may attend meetings in that capacity only:

- (a) to take the place of the ordinary Member for whom they are the designated substitute;
- (b) where the ordinary Member will be absent for the whole of the meeting; and
- (c) after notifying the Proper Officer by 12 midday on the day of the meeting of the intended substitution. This does not apply to the Development Management Committee where the required notification must be either to the Committee Chair or to the Executive Member whose portfolio includes Development Management who, in turn, will notify the ~~Head of Legal and Democratic Services~~ Director for Legal, Policy and Governance at least seven hours before commencement of the Development Management Committee meeting. The duration of the substitution shall form part of the notification.

3.12.5 The ~~Director for Legal, Policy and Governance~~ Head of Legal and Democratic Services shall change the standing membership of Committees and joint Committees in accordance with the wishes of the political groups to whom seats on these Committees have been allocated.

### **3.13 Notice of and summons to meetings**

3.13.1 The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five Clear Days before a meeting, the Proper Officer will send a summons which will give the date, time and place of each meeting and



specify the business to be transacted, and will be accompanied by such reports as are available.

### **3.14 Chairman of the meeting**

3.14.1 The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to Committee and Sub-Committee meetings, references to the Chair also include the Chair of Committees and Sub-Committees.

### **3.15 Quorum**

3.15.1 For Council, the Quorum of a meeting will be one quarter of the whole number of Members. For Committees, joint and Sub-Committees, the Quorum shall be one third of the membership of that body. During any meeting, if the Chairman counts the number of Members present and declares there is not a Quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If they do not fix a date, the remaining business will be considered at the next Ordinary Meeting.

### **3.16 Duration of meeting**

3.16.1 Unless the majority of Members present vote for the meeting to continue, any meeting that has lasted until 10.00 p.m. will adjourn on completion of the item being considered. Remaining business will be considered at a time and date fixed by the Chairman. If they do not fix a date, the remaining business will be considered at the next Ordinary Meeting.

### **3.17 Petitions**

- 3.17.1 The Council operates a petitions scheme details of which can be found at: <https://www.eastherts.gov.uk/petitions>
- 3.17.2 A document submitted by a Member or members of the public shall be identified as a petition where it is a formal written request signed by many people appealing to the authority in respect of a particular cause in the authority's remit. Petitions may be submitted in paper form or online.
- 3.17.3 Petitions with 150 signatures or more will be presented to the next Ordinary Meeting of the Council. Petitions must be submitted by midday, three working days before the Council meeting.
- 3.17.4 Lead petitioners shall be invited to address the Council for up to three minutes after which a response shall be given by the relevant Executive Member outlining how the council intends to deal with the petition. Local Ward Members may also speak on the subject of the petition.
- 3.17.5 Petitions with 50 – 149 signatures will be referred to the relevant Executive Member to provide a written response.
- 3.17.6 Petitions with fewer than 50 signatures will not be accepted as valid petitions.
- 3.17.7 If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply.

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

- (a) a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take; and
- (b) the name and address and signature of any person supporting the petition.

3.17.9 E-petitions which are created and submitted through the council's website must follow the same guidelines as paper petitions. The petition organiser will need to provide their name, postal address and email address. The petition organiser will also need to decide how long a petition should be open for signatures.

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

### **3.18 Questions by the public**

3.18.1 Members of the public may ask questions of the Leader and Members of the Executive at Ordinary Meetings of the Council.

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

3.18.3 A question may only be asked if notice has been given by delivering it in writing or by electronic mail to [democratic.services@eastherts.gov.uk](mailto:democratic.services@eastherts.gov.uk) no later than midday, three working days before the meeting. Each

question must give the name and address of the questioner and must name the Member of the Council to whom it is to be put.

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

3.18.5 The Director for Legal, Policy and Governance ~~Head of Legal and Democratic Services~~ may reject a question if it:

- (a) is not about a matter for which the council has a responsibility or which affects the district;
- (b) is defamatory, frivolous or offensive;
- (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (d) requires the disclosure of Confidential or Exempt Information; or
- (e) contravenes the rules around the Pre-Election Period of Sensitivity, where such rules are in place from time to time.

3.18.6 All questions and answers given will be summarised in the minutes of the meeting.

3.18.7 The Chairman will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, or if they so elect, they may ask the Chairman to put the question on their behalf. The Chairman may ask the question on the questioner's

behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

- 3.18.8 The time allowed for consideration of any questions submitted under 3.18 shall not exceed 15 minutes unless the Chairman consents to a longer period.
- 3.18.9 A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to their original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in paragraph 3.18.5 above.
- 3.18.10 Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer. Any answers which cannot be given during the meeting due to lack of time will also be summarised in a supplementary document to be published as soon as practical after the meeting.
- 3.18.11 Unless the Chairman decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Executive or the appropriate Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion.

### **3.19 Questions by Members**

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

3.19.2 A Member of the Council may ask:

- (a) the Chairman;
- (b) the Leader;
- (c) a Member of the Executive; or
- (d) the Chair of any Committee or Sub-Committee

a question on any matter in relation to which the council has powers or duties or which affects the district.

3.19.3 A Member of a Committee or Sub-Committee may ask the Chairman of it a question on any matter in relation to which the council has powers or duties or which affect the district and which falls within the terms of reference of that Committee or Sub-Committee.

3.19.4 A Member may only ask a question under paragraph 3.19.2 or 3.19.3 if either:

- (a) they have given notice in writing of the question to the [Director for Legal, Policy and Governance](#)~~Head of Legal and Democratic Services~~, which has been received not later than midday, three working days before the meeting; or
- (b) the question relates to urgent matters, they have the consent of the Chairman to whom the question is to be put and the content of the question is given to the [Director for Legal, Policy and Governance](#)

~~Head of Legal and Democratic Services~~ by midday on the day of the meeting.

- 3.19.5 Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.
- 3.19.6 A Member may ask only two questions under 3.19.2 or 3.19.3 except with the consent of the Chairman of the Council, Committee or Sub-Committee.
- 3.19.7 A Member asking a question under 3.19.2 and 3.19.3 and a Member answering such a question shall ensure that the question and the reply is succinct.
- 3.19.8 The time allowed for consideration of any questions submitted under 3.19.2 shall not exceed 15 minutes unless the Chairman consents to a longer period.
- 3.19.9 Any remaining questions shall be responded to in writing before the next Ordinary Meeting of the Council. Any answers which cannot be given during the meeting due to lack of time will also be summarised in a supplementary document to be published as soon as practical after the meeting.
- 3.19.10 Every question on notice will be answered without discussion. The Member who is asked the question on notice may ask another Member to answer. An answer may take the form of:
- (a) a direct oral answer;
  - (b) where the desired information is in a publication of the council or other published work, a reference to that publication;

(c) a written answer circulated later to the questioner;  
or

(d) a combination of any of the above

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

3.19.12 A Member asking a question under paragraph 3.19.2 or 3.19.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply. The Chairman has the right to prevent any Members from asking a protracted supplementary question or giving a protracted answer.

3.19.13 If the Member who gave notice of a question is not present at the meeting, there will be no supplementary question after the Member to whom the question was asked has given their response.

### **3.20 Motions on notice**

#### **3.20.1 Notice**

Except for motions which can be moved without notice under paragraph 3.21, written notice of every motion, signed by at least two Members, or if sent by email, confirmed as submitted by at least two Members, must be delivered to the [Director for Legal, Policy and Governance](#) ~~[Head of Legal and Democratic Services](#)~~ in normal office hours not later than 12 noon, six clear working days



(excluding the day of the meeting) before the next meeting of the Council.

i.e. if the Council meeting is held on a Wednesday, the motion deadline would be 12 noon on the Monday the week before.

Motions on notice will be entered in a register open to public inspection. The Proper Officer may, with the consent of the Chairman, refuse to accept a motion if the matter to which it relates is referred to in the Forward Plan for consideration at a later meeting or there is otherwise an intention to consider that matter at a meeting of the Council within the next three months.

#### 3.20.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

#### 3.20.3 Scope

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

#### 3.20.4 One motion per Member

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

#### 3.20.5 Debate at Council

Motions that have been proposed and seconded shall then be the subject of immediate debate unless the Chairman of the Council considers it to be appropriate for the motion to be referred to the Executive or a Committee for consideration. In such cases the Chairman shall provide reasons for such a decision.

### **3.21 Motions without notice**

3.21.1 The following motions may be moved without notice:

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

- (l) to adjourn a meeting;
- (m) that the meeting continue beyond 10.00 p.m. in duration;
- (n) to suspend a particular council procedure rule;
- (o) to exclude or readmit the public and press in accordance with the Access to Information Rules;
- (p) to not hear further a Member named under 3.30.4 or to exclude them from the meeting under 3.30.5; and
- (q) to give the consent of the Council where its consent is required by this Constitution.

## **3.22 Rules of debate**

### **3.22.1 No speeches until motion seconded**

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

### **3.22.2 Right to require motion in writing**

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

### **3.22.3 Seconder's speech**

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

### **3.22.4 Content and length of speeches**

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

#### 3.22.5 When a Member may speak again

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

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

#### 3.22.6 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;

- (iii) to leave out words and insert or add others; or
- (iv) to insert or add words.

as long as the effect of (ii) to (iv) is not to negate the motion or otherwise substantially rewrite the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been decided.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put the substantive motion as amended for debate to the vote.

### 3.22.7 Alteration of motion

- (a) A Member may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Member may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

- (c) Only alterations which could be made as an amendment may be made.

### 3.22.8 Withdrawal of motion

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

### 3.22.9 Right of reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.
- (d) A reply under this paragraph will be confined to matters raised in the debate on the motion or amendment.
- (e) After every reply to which this rule refers, a vote will be taken without further discussion.

### 3.22.10 Motions which may be moved during debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) that the subject of debate:
  - (i) be referred to the appropriate forum for consideration; or
  - (ii) be referred back to the appropriate forum for further consideration.
- (d) that the meeting continue beyond 10.00 p.m. in duration;
- (e) to adjourn the debate
- (f) to adjourn a meeting
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a Member named under Rule 3.30.4 or to exclude them from the meeting under Rule 3.30.5.

Any of the motions under paragraph 3.23.10 of these Rules will not take away from the mover of the original motion the right to reply.

#### 3.22.11 Closure motions

- (a) A Member may move, without comment, the following motions at the end of a speech of another Member:
  - (i) to proceed to the next business;
  - (ii) that the question be now put;

- (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a motion “to proceed to next business” or “that the question be now put” is seconded and the Chairman thinks the item has been sufficiently discussed, they will put the closure motion to the vote. If it is passed, the Chairman will give the mover of the original motion a right of reply and then put the original motion to the vote.
- (c) If a motion “to adjourn the debate” or “to adjourn the meeting” is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### 3.22.12 Point of order

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

#### 3.22.13 Personal explanation

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may



appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

### **3.23 Previous decisions and motions**

#### 3.23.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 25 Members. The restrictions contained in 3.25 do not apply to:

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

#### 3.23.2 Motion similar to one previously rejected

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

### **3.24 Voting**

#### 3.24.1 Majority

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

### 3.24.2 Chairman's casting vote

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

### 3.24.3 Show of hands

The Chairman will take the vote by show of hands asking Members to indicate whether they are for, against or abstain, unless a ballot or recorded vote is taken in line with paragraph 3.26.4 and 3.26.5.

### 3.24.4 Ballots

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

### 3.24.5 Recorded vote

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

### 3.24.6 There will also be a recorded vote when required by law.

This includes that a recorded vote will be required at a meeting of the Council on motions, amendments or substantive motions relating to the approval of the Budget or setting of council tax, whereby there shall be recorded in the minutes the names of the Members who

cast a vote for the motion/amendment or against the motion/amendment or who abstained from voting. As this is a mandatory standing order under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, it cannot be suspended under paragraph 3.32.

#### 3.24.7 Right to require individual vote to be recorded

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

#### 3.24.8 Voting on appointments

- (a) If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.
- (b) In the event that the removal of persons jointly having fewest of votes would result in only one candidate remaining (and that candidate does not have a majority), the above provision will not apply and the Chief Executive (or their representative) will draw lots to determine which of the candidates with fewest votes will proceed to the next round.
- (c) In the event of there being an equality of votes for the final two candidates, lots will be drawn by the Chief

Executive (or their representative) to decide which person is elected.

### **3.25 Minutes**

#### 3.25.1 Signing the minutes

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

#### 3.25.2 No requirement to sign minutes of previous meeting at an Extraordinary Meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an ), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

#### 3.25.3 Form of minutes

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

### **3.26 Record of attendance**

#### 3.26.1 All Members present during the whole or part of a meeting will be recorded as having been present by Democratic Services.

### **3.27 Exclusion of public**

- 3.27.1 Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Section 12 of this Constitution or paragraph 3.31 (Disturbance by Public).

### **3.28 Members' conduct**

#### **3.28.1 Speaking at Meetings**

When a Member wishes to speak at Council they must notify their request by hand and address the meeting through the Chairman. If more than one Member signifies their intention to speak, the Chairman will ask one to speak. Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

#### **3.28.2 Respect for the Chairman**

When the Chairman calls for order during a debate, any Member speaking at the time must stop. The meeting must be silent.

#### **3.28.3 Member not to be heard further**

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

#### **3.28.4 Member to leave the meeting**

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

#### 3.28.5 General disturbance

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as they reasonably think is necessary.

### **3.29 Disturbance by public**

#### 3.29.1 Removal of member of the public

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

#### 3.29.2 Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared. The Chairman may without debate or resolution adjourn the meeting to allow removal to take place.

### **3.30 Suspension and amendment of council procedure rules**

#### 3.30.1 Suspension

All of these Council Rules of Procedure except paragraph 3.26.5, 3.26.6, 3.27.2 and 3.29 may be suspended by

motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

#### 3.30.2 Amendment

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

### **3.31 Application to Committees and Sub-Committees**

3.31.1 All of the Council Rules of Procedure apply to meetings of Council. None of the rules apply to meetings of the Executive. Only paragraphs 3.12 – 3.16, 3.19.3 – 3.19.7, 3.21, 3.24 – 3.29 and 3.31 – 3.32 apply to meetings of Committees and Sub-Committees.

### **3.32 Disclosable Pecuniary Interests**

3.32.1 A Member must withdraw from the meeting room including from the public gallery during the whole of consideration of any item of business in which they have a Disclosable Pecuniary Interest, except where they are permitted to remain as a result of a grant of a dispensation.

### 3.40 Responsibility for Local Choice Functions

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

Function	Decision Making Body	Delegation
Functions under local Acts (other than a function specified in Regulations 2 and Schedule 1 of the Regulations)	Council	<u>Heads of Service Directors</u> within their area of responsibility as defined in the Officer Scheme
The determination of an appeal against any decision made by or on behalf of the authority	Council	Committee of the Council or an officer as detailed elsewhere in this Constitution
Any function relating to contaminated land	Council	<u>Head of Housing and Health Director for Communities</u>
The discharge of any function relating to the control of pollution or the management of air quality	Council	<u>Director for Communities Head of Housing and Health</u>



The service of an abatement notice in respect of a statutory nuisance	Council	<a href="#">Head of Housing and Health Director for Communities</a>
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	Executive	
The inspection of the authority's area to detect any statutory nuisance.	Council	<a href="#">Head of Housing and Health Director for Communities</a>
The investigation of any complaint as to the existence of a statutory nuisance	Council	<a href="#">Head of Housing and Health Director for Communities</a>
The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 or S.330 Town & Country Planning Act as amended 1990	Council	<a href="#">Head of Legal and Democratic Services Director for Legal, Policy and Governance</a>
The appointment of any individual  (a) To any office other than an office in	Council	As delegated elsewhere in this Constitution or by the decision of Council on a case-by-case basis

<p>which he is employed by the authority:</p> <p>(b) To any body other than</p> <p>i. The authority;</p> <p>ii. A Joint Committee of two or more authorities; or</p> <p>(c) To any Committee or Sub-Committee of such a body</p> <p>and the revocation of any such appointment</p>		
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## **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 ~~clear~~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 non-key decisions**

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

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

4.22.4 The Executive Member or officer 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 or officer 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 Head of Legal and Democratic Services;
- (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.

## 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 ~~Head of Planning and Building Control~~ 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.

## **6.5 Licensing Committee**

### 6.5.1 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.

### 6.5.2 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).

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

### 6.5.4 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.

## **6.6 Membership and meeting arrangements**

6.6.1 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.

6.6.2 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.

6.6.3 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.

6.6.4 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.

## **6.7 Quorum**

6.7.1 The Quorum for the Committee shall be four Members.

## **6.8 Delegation of functions**

6.8.1 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.

6.8.2 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.

6.8.3 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.

6.8.4 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.

6.8.5 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.

6.8.6 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.

## **6.9 Procedure at meetings**

6.9.1 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
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**TABLE B**

**Gambling Act 2005: Delegation of Functions**

<b>GAMBLING ACT 2005</b> <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
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**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</li> </ul>	<p>The sub-committee* in all cases</p>



type of Sex Establishment Licence	
<p>* <i>Matters ordinarily delegated to a sub-committee may be referred to the Licensing Committee at the discretion of the <del>Head of Housing and Health</del><u>Director of Communities</u> after consultation with the Chair and/or Vice-Chair of the Licensing Committee</i></p>	

Matter to be dealt with	Delegated to
<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 Head of Housing and Health, Direction 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 ~~Democratic Services~~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> <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>
<p>Determination of application for premises licence <i>Section 18(3)(a)</i></p> <p>Determination of application for a provisional statement – premises to be constructed, extended or altered</p>	20 working days commencing day after period of consultation ends	Ten working days	<p>The person who has made the application</p> <p>Persons who have made relevant representations</p>	The relevant representations that have been made	Five working days before day on which hearing is held
<p>Determination of application to vary premises licence <i>Section 35(3)(a)</i></p>	20 working days commencing day after period of consultation ends	Ten working days	<p>Holder of premises licence who made application</p> <p>Persons who have made relevant representations</p>	The relevant representations that have been made	Five working days before day on which hearing is held
<p>Determination of application to vary a premises licence to specify individual as the premises supervisor <i>Section 39(3)(a)</i></p>	20 working days commencing day after period within which police may object	Ten working days	<p>Holder of premises licence who made application</p> <p>Police</p> <p>The DPS</p>	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> <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  <i>Section 44(5)(a)</i>	Five working days commencing day after period within which police may object	Ten working days	The person who has made the application Police  The holder of the premises licences	The notice given by the Police	Five working days before day on which hearing is held
Cancellation of interim authority notice on death etc of licence holder following police objections  <i>Section 48(3)(a)</i>	Five working days commencing day after period within which police may object	Two working days	The person who has given notice Police	The notice given by the Police	One working day before day on which hearing is held
Determination of application for review of premises licence  <i>Section 52(2)</i>	20 working days commencing day after period of consultation ends	Ten working days	The holder of the premises licence Persons who have made relevant representations Persons who asked for the review	The relevant representations that have been made	Five working days before day on which hearing is held
Determination of application for club premises certificate  <i>Section 72(3)(a)</i>	20 working days commencing day after period of consultation ends	Ten working days	The club that has made the application  Persons who have made relevant representations	The relevant representations that have been made	Five working days before day on which hearing is held



Determination of application to vary club premises certificate <i>Section 85(3)(a)</i>					
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<b>Provision under which hearing may be held</b> <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 <i>Section 88(2)</i>	20 working days commencing day after period of consultation ends	Ten working days	The club which holds the club premises certificate Persons who have made relevant representations Persons who asked for the review	The relevant representations that have been made	Five working days before day on which hearing is held
Counter notice following police objection to Temporary Event Notice <i>Section 105(2)(a)</i>	Seven days commencing day after period within which police may object	Two working days	The premises user Police		One working day before day on which hearing is held
Determination of application for grant of a personal licence <i>Section 120(7)(a)</i>	20 working days commencing day after period within which police may object	Ten working days	The person who has made the application Police	The notice given by the Police	Five working days before day on which hearing is held
Determination of application for renewal of a personal licence <i>Section 121(6)(a)</i>	20 working days commencing day after period within which police may object	Ten working days	The person who has made the application Police	The notice given by the Police	Five working days before day on which hearing is held

Convictions coming to light after grant or renewal of personal licence <i>Section 124(4)(a)</i>	20 working days commencing day after period within which police may object	Ten working days	The holder of the personal licence Police	The notice given by the Police	Five working days before day on which hearing is held
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<b>Provision under which hearing may be held</b> <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 <i>Section 167(5)(a)</i>	Ten working days commencing day after notice given	Five working days	The holder of the premises licence Persons who have made relevant representations	The relevant representations that have been made	Two working days before day on which hearing is held
Determination of application for conversion of existing licence <i>Paragraph 4(3)(a) of Schedule 8</i>	Ten working days commencing day after Police give notice	Five working days	The person who has made the application Police		Two working days before day on which hearing is held
Determination of application for conversion of existing club certificate <i>Paragraph 16(3)(a) of Schedule 8</i>	Ten working days commencing day after Police give notice	Five working days	The club that made the application Police		Two working days before day on which hearing is held
Determination of application by holder of a justices' licence for grant of a personal licence <i>Paragraph 26(3)(a) of Schedule 8</i>	Ten working days commencing day after Police give notice	Five working days	The person who has made the application Police		Two working days before day on which hearing is held

## 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 ~~Head of Legal and Democratic Services~~[Director of Legal, Policy and Governance](#).

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 Head of Human Resources and Organisational Development or a senior Human Resources Officer shall act as secretary to the employer's side.

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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 thereceipt 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 Head of Human Resources and Organisational Development (or a senior Human Resources Officer), the Chair and the Vice Chair, and shall be circulated at least five Clear Days before the meeting.

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8.4.10 Either side will have the right to co-opt, in a consultative capacity, representatives of particular interests affected by aquestion 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 Head of Human Resources and Organisational Development in his or her capacity as secretary to the employer's side.

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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.



## **9.2 Financial Procedure Rules**

- 9.2.1 These Financial Procedure Rules (FPR) have been issued in accordance with Section 151 of the Local Government Act 1972, the Accounts and Audit (England) Regulations Act 2011, the provisions of Section 114 of the Local Government Finance Act 1988 and Sections 4 and 5 of the Local Government and Housing Act 1989.
- 9.2.2 The FPR have been adopted by East Herts District Council to provide a framework of control, responsibility and accountability for the administration of the council's financial affairs. The FPR are, in many of the areas detailed below, supported by more detailed guidance and procedures which set out how they will be implemented.
- 9.2.3 The FPR are intended to clarify the powers and duties to be exercised with regard to the principles of good financial management. All Officers must comply with the FPR. Officers must ensure that any Agents, consultants and contractual partners acting on the council's behalf also comply. Any queries regarding the interpretation of the FPR should be directed to the Chief Financial Officer.
- 9.2.4 For the purposes of these FPR there is a requirement for all communication to be in writing except where otherwise specified. This requirement shall be deemed to include electronic communication.
- 9.2.5 Where inconsistencies arise the order of precedence shall be:
- (a) legislation;
  - (b) other rules of procedure in this Constitution;

- (c) Scheme for the Responsibility for Functions (Section 10 of this Constitution); then
- (d) Financial Procedure Rules.

#### 9.2.6 Financial delegations

All Officers must operate within the council's Scheme of Financial Delegations as listed in Appendix 1. As a general principle, financial decisions will be taken at the lowest level allowable within the officer and Member hierarchy in the scheme.<sup>1</sup>

#### 9.2.7 Officer responsibilities for financial management

The Chief Financial Officer is responsible for administering the financial affairs of the council and for establishing proper systems of internal control.

#### 9.2.8 The Chief Financial Officer shall:

- (a) ensure that the policies of the council and statutory requirements are adhered to;
- (b) ensure that the business of the council is carried out in an orderly, efficient and effective manner;
- (c) ensure that the council's records are complete and accurate;
- (d) ensure financial information and reporting is timely and accurate;

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<sup>1</sup> It should also be noted that the council has an authorised signatory list which lists specific values for delegated Council staff.

- (e) ensure the assets of the council are safeguarded;
- (f) make and control arrangements for the payment of the council's creditors and for the collection, custody and accounting of all monies received by the council;
- (g) establish an adequate and effective internal audit of the council's accounting records and system(s) of internal control;
- (h) have access to all records, cash or other council property as required for audit purposes. If required the Chief Financial Officer may also request access to such information and explanations from any officer or Member as may be necessary for audit purposes;
- (i) prepare and publish the annual accounts of the council in accordance with statutory requirements and the policies of the council; and
- (j) have responsibility for making all statutory returns and the like to HM Revenues and Customs in relation to Value Added Tax, and for the obtaining and giving of advice and guidance to the council and Heads of Service on all tax matters.

9.2.9 The Chief Financial Officer is the Officer designated by the Council as being responsible under section 151 of the Local Government Act 1972 for the proper administration of the council's financial affairs.

9.2.10 The role of budget holders

Budget holders are Officers who are responsible for monitoring a budget, including determining expenditure

from and/or income posted to that budget. Budget holders may be at any level within the council.

9.2.11 Budget holders shall:

- (a) maintain financial records and accounts that can be accessed by the Chief Financial Officer when required. The financial records shall be retained by budget holders for such periods as required for council or statutory purposes. Records should, wherever possible, be stored on the financial management system;
- (b) in consultation with the Chief Financial Officer ensure that all financial affairs of the council are managed in a properly controlled environment and compliant with the council's Information Security Policy;
- (c) manage budgets, including forecasting annual spend, using the council's financial management system. This will enable the Chief Financial Officer to maintain effective control and audit of the financial affairs of the council;
- (d) designate Officers to be responsible for authorising financial transactions on their behalf if and when required. Budget holders must inform the Chief Financial Officer of all Officers with delegated financial responsibilities; and
- (e) be responsible for ensuring the correct treatment of Value Added Tax on all accounts payable and all invoices raised.

9.2.12 Officer roles regarding financial reporting and investigation

Any officer who suspects any financial irregularity should raise his or her concerns with his or her line manager or a member of the council's Leadership Team in accordance with the Whistleblowing Policy. The Chief Executive, the Monitoring Officer and the Chief Financial Officer will take such steps as they consider necessary by way of investigation and report.

- 9.2.13 The Chief Financial Officer shall control the issue and use of controlled stationery. Controls on the use of such stationery must be adequate to enable usage to be traced and to prevent incorrect or fraudulent usage.
- 9.2.14 Budget holders shall be responsible for the security and use of controlled stationery and are not permitted to obtain controlled stationery other than in accordance with the internal arrangements set out by the Chief Financial Officer.

### **9.3 Banking arrangements**

- 9.3.1 The Chief Financial Officer shall make and control arrangements as necessary for the operation of banking services for the council.
- 9.3.2 All monies received on behalf of the council should be brought to the attention of the Chief Financial Officer and banked in accordance with their instructions.
- 9.3.3 The Chief Financial Officer shall arrange payments or transfers to and from the council's bank accounts by the use of electronic methods.
- 9.3.4 The Chief Financial Officer shall ensure that all bank accounts and credit cards operated by the council are reconciled at intervals of no longer than one calendar month.

#### **9.4 Forward financial planning**

- 9.4.1 The Chief Financial Officer will prepare for the Executive, a timetable each year for the preparation, submission and approval of the forward financial plan covering revenue budgets and capital expenditure.
- 9.4.2 The Chief Financial Officer will ensure that the forward financial plan is prepared in accordance with the timetable and any guidelines issued by the Executive.
- 9.4.3 The Executive shall consider the proposed forward financial plan and each year shall submit appropriate recommendations to the Council. The report shall include a recommendation as to the council tax to be levied in the following financial year.
- 9.4.4 The Chief Financial Officer shall provide financial information in an appropriate form for the continuous monitoring and control of financial activities of the council by the Executive and each Committee with finances allocated to it.
- 9.4.5 The Chief Financial Officer shall inform the Executive of any significant variation to the financial plan during the financial year. If for any reason any budget of approved expenditure may be exceeded or the estimated income not reached, the Chief Financial Officer shall inform the Executive or relevant Committee together with a proposal to address the situation.
- 9.4.6 Any proposal to incur expenditure, either capital or revenue, above those limits set out in the council's budget and policy rules, that is not included in the existing financial plan or

budget shall be delegated to the relevant Committee or Officer as stated in Appendix 1.

## **9.5 Expenditure**

### 9.5.1 Official orders

Official orders shall be issued using the council's financial system, for all works, goods or services to be supplied to the council except for supplies of public utility services, for periodical payments such as rent or rates, for petty cash purchases or other exemptions approved by the Chief Financial Officer.

9.5.2 Procurement of works, goods or services to be supplied to the council shall be completed in accordance with the council's Contract Procedure Rules.

9.5.3 Official orders shall specify the nature and quantity of goods, services, or works required, any relevant contract, and the agreed prices.

9.5.4 Official orders shall not be issued for works, goods or services unless the cost is within an approved estimate or other financial provision.

### 9.5.5 Certificates for payment

All certificates for payment shall be authorised for payment by the signature, or electronic signature, or via the approval facility on the council's financial management system, of the appropriate budget holder or other authorised signatory, as agreed by the Chief Financial Officer. Such authorisation shall imply that:

- (a) the expenditure is within an approved estimate or other financial provision;
- (b) the expenditure has been coded to the correct financial heading;
- (c) the goods, services or works have been supplied and are satisfactory;
- (d) appropriate prices have been charged for the goods, services or works;
- (e) all conditions imposed by the order or contract agreement have been substantially complied with;
- (f) where applicable Value Added Tax, Construction Industry Tax or any other relevant taxation requirements are complied with;
- (g) the certificate for payment has not previously been passed to the Chief Financial Officer for payment; and
- (h) appropriate entries have been made in all relevant inventories, stock records or asset registers.

9.5.6 To reduce multiple certificates for payment, budget holders should aim to agree payment within 30 days of receipt of invoice. Invoices will be paid by BACS or other electronic funds transfer.

9.5.7 The Chief Financial Officer shall examine accounts passed for payment and shall make such enquiries and receive such information as necessary to establish that the payments are in order.



- 9.5.8 The Chief Financial Officer may provide advance accounts to designated Officers for petty cash or for change float purposes.
- 9.5.9 The maximum limit of advance accounts shall be agreed with the Chief Financial Officer and not exceeded without permission of the Chief Financial Officer. Appropriate safes and other receptacles shall be provided as required.
- 9.5.10 The Officers responsible for advance accounts shall maintain a record of their transactions in the form and manner required by the Chief Financial Officer.
- 9.5.11 Payments from advance accounts shall be limited to minor items of expenditure not exceeding £20. The claim must be supported by a receipted voucher and properly authorised claim form.
- 9.5.12 Officers with responsibility for an advance account shall be required to provide information about the state of the account to the Chief Financial Officer as necessary.
- 9.5.13 If the advance account is no longer required or an officer ceases to be responsible for holding an account, the relevant budget holder shall ensure that the balance of the advance account is returned to the Chief Financial Officer.

## **9.6 Income**

- 9.6.1 Budget holders shall notify the Chief Financial Officer of all money due to, or expected by, the council. This includes sponsorship or grant income, contracts, leases and other agreements entered into which involve the receipt of monies.

- 9.6.2 Where cheques are paid in, the amount of each cheque and a reference to enable the cheque to be traced shall be recorded on the banking paying-in-slip or a format agreed with the Chief Financial Officer.
- 9.6.3 An official receipt is a written or printed acknowledgement given on behalf of the council for monies received. Such acknowledgement shall be given from a cash receipting system which has been approved for use by the Chief Financial Officer.
- 9.6.4 All monies shall be held and transported securely in accordance with any requirements from the Chief Financial Officer.
- 9.6.5 Each budget holder is responsible for ensuring that accounts are promptly and accurately raised in respect of charges for work done or goods or services supplied. This includes cases where sponsorship money or grant income is due.
- 9.6.6 The Chief Financial Officer may write off irrecoverable debts up to a limit of £50,000 in any one case. Irrecoverable debts in excess of this amount shall be referred to the Executive.

## **9.7 Contracts**

- 9.7.1 All contracts made for and on behalf of the council shall be subject to the Contract Procedure Rules, these Financial Procedure Rules and any other statutory provision, except in circumstances where the council is acting as an Agent for another organisation which specifically directs otherwise.
- 9.7.2 The Chief Financial Officer shall maintain a register of payments due and made under formal contracts over £50,000 to show the state of account on each contract

between the council and the contractor, together with any other payments.

- 9.7.3 Payment on account of the contract sum shall be made only on a certificate signed by the appropriate budget holder. The certificate shall show, as a minimum, the total amount of the contract, the value of work executed to date, retention money, amount paid to date and the amount now certified.
- 9.7.4 Before a certificate for final payment under a contract is paid, the appropriate budget holder shall produce to the Chief Financial Officer a detailed written statement of account, together with such other documents as may be required.
- 9.7.5 Subject always to the council's Contract Procedure Rules in paragraphs 9.12 – 9.30 of this Constitution, the appropriate budget holder shall be empowered to authorise a variation or addition to a contract. Where the variation or addition is estimated to result in a material increase, that is the higher of 5% of the contract value or £10,000, it must be approved in advance by the Chief Financial Officer.
- 9.7.6 Where completion of a contract is delayed, except for reasons qualifying for an extension of the contract, it shall be the duty of the budget holder to supply the Chief Financial Officer with all necessary information to allow the correct amount of Liquidated and Ascertained Damages to be claimed.

## **9.8 Treasury Management**

- 9.8.1 The council has adopted the Chartered Institute of Public Finance and Accountancy (CIPFA) Code for Treasury Management in Local Authorities. If deemed necessary, the

Chief Financial Officer shall advise the Executive of any significant amendment to the CIPFA Code.

9.8.2 The Chief Financial Officer shall be authorised to make investment, borrowing and financing decisions on behalf and in the name of the council. All decisions shall be taken in accordance with the council's Treasury Management Investment Strategy.

9.8.3 All monies held by the council shall be aggregated for the purposes of treasury management and shall be under the control of the Chief Financial Officer.

9.8.4 All investments and borrowing, including for any trust administered by the council, shall be made in the name of the council and any deeds relating to such funds shall be deposited with the Monitoring Officer or otherwise as deemed appropriate by the Chief Financial Officer.

9.8.5 The Chief Financial Officer is given the authority to deal with any emergency situation that may arise in relation to any matters not already delegated within the Treasury Management Policy. Use of emergency authority will be reported at the next meeting of the Executive.

## 9.9 Staffing

9.9.1 The **Head of Human Resources and Organisational Development** shall make and control arrangements for the payment of salaries, wages, expenses and benefits to Officers in accordance with the approved salary scales and wage rates.

9.9.2 The **Head of Human Resources and Organisational Development** shall be provided with the appropriate

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documentation required to ensure the payment of salaries, wages, pensions and other expenses due to Officers.

9.9.3 All claims for payment must be made as soon as possible and in no circumstances should a claim be delayed for more than three months after the date on which the work was done or the expenses incurred.

9.9.4 Matters which affect officer payments shall be referred directly to the **Head of Human Resources and Organisational Development**. Notification shall include:

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- (a) details of all appointments, resignations, dismissals, suspensions, secondments and transfers;
- (b) details of any training;
- (c) changes in remuneration except for national pay increases;
- (d) absence from duty for sickness or other reason, apart from approved leave; and
- (e) information necessary to maintain records for pension, income tax, national insurance and the like.

9.9.5 The **Head of Human Resources and Organisational Development** shall maintain appropriate records and make arrangements for the payment of sums due to Members in accordance with the Allowance Scheme approved by the Council.

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## 9.10 Insurance

- 9.10.1 The Chief Financial Officer shall make and control arrangements for the provision of necessary insurance cover and for the negotiation of any insurance claims.
- 9.10.2 The Chief Financial Officer shall obtain competitive quotations from insurers for the provision of insurance at least every five years unless otherwise determined by the current contract term or the Executive.
- 9.10.3 All budget holders shall notify the Chief Financial Officer of all insurable risks arising from the activities carried out in their area of operation. Such notification shall include:
- (a) the acquisition of any property which is capable of insurance against fire or other risks;
  - (b) any amendment to the value of any council-owned asset likely to affect the insurable risk; and
  - (c) any insurable risk which may arise through the activities of Members or Officers of the council.
- 9.10.4 All Heads of Service shall notify the Chief Financial Officer of the occurrence of any event which may give rise to a claim under any policy of insurance held by the council or to an ex gratia payment.
- 9.10.5 The Chief Financial Officer shall be authorised to make the appropriate reimbursement of any insurance claim up to the excess limit of the insurance policy concerned.
- 9.10.6 The Chief Financial Officer shall in consultation with the Head of Human Resources and Organisational Development be authorised to make appropriate ex gratia payments and write off the loss of any stores, equipment and other assets up to £1,000.

- 9.10.7 All appropriate Officers of the council shall be included in a suitable fidelity guarantee insurance.
- 9.10.8 Officers shall consult the Chief Financial Officer in respect of the terms of any indemnity which the council is requested to give.

### **9.11 Assets**

- 9.11.1 The Chief Financial Officer is the council's Corporate Property Officer and shall maintain an asset register and associated records of all land, buildings, vehicles and equipment owned, leased or managed by the council.
- 9.11.2 An annual report of vacant and underused properties owned by the council shall be made to the Executive.
- 9.11.3 Where land or buildings are no longer required for their intended use the Corporate Property Officer shall report to the Executive on the suggested future use, or disposal, of the asset.
- 9.11.4 The Monitoring Officer shall have custody of and keep all title deeds in a secure manner.
- 9.11.5 All Officers shall be responsible for maintaining proper security of the assets under their control.
- 9.11.6 The Chief Financial Officer shall be responsible for ensuring that adequate controls and security procedures are maintained in connection with the council's information technology systems and installations.

## Appendix 1: Scheme of Financial Delegations

Financial action	Council	Executive	Chief Executive / Deputy	Chief Financial Officer / Deputy	Directors/Heads of Service	Service Managers	Budget holders
<b>Budget setting</b>							
Annual approval of the budget, the Medium Term Financial Plan and setting the Council Tax	No financial limit and no delegation of authority	No delegated authority	No delegated authority	No delegated authority	No delegated authority	No delegated authority	No delegated authority
In year capital funding approval	No financial limit	Up to £500,000	Up to £250,000	Up to £100,000	No delegated authority	No delegated authority	No delegated authority
<b>Management of approved budgets</b>							
Expenditure within approved capital and revenue budgets	Delegated to officers	Delegated to officers	Delegated to budget holders	Delegated to budget holders	Delegated to budget holders	Delegated to budget holders	Up to approved budget
Authority to use earmarked reserves	Delegated to officers	Delegated to officers	Delegated to Chief Financial Officer	No financial limit	No delegated authority	No delegated authority	No delegated authority
Purchase order approval and/or contract award	Delegated to officers	Delegated to officers	No financial limit	No financial limit	Up to £1,000,000 & delegated to Service Managers, Budget Holders & Service Officers as per Authorised Signatory list	No authority unless delegated by <b>Head of Service Director</b> - Up to £250,000	No authority unless delegated by <b>Director/Head of Service</b> - Up to £100,000
Payment of grants	Delegated to officers	Delegated to officers	No financial limit	No financial limit	Up to £500,000 & delegated to Service Managers, Budget Holders & Service Officers as per Authorised Signatory list	No authority unless delegated by <b>Director/Head of Service</b> - Up to £100,000	No authority unless delegated by <b>Director/Head of Service</b> - Up to £100,000



Virements within a service's approved budgets	Delegated to officers	Delegated to officers	Delegated to Chief Financial Officer	No financial limit	Up to £100,000	No authority unless delegated by <b>DirectorHead of Service</b> - Up to £100,000	No authority unless delegated by <b>DirectorHead of Service</b> - Up to £100,000
Virements across services, within overall approved budget levels	Delegated to officers	Delegated to officers	Delegated to Chief Financial Officer	No financial limit	No delegated authority	No delegated authority	No delegated authority
Write offs / waivers of income due	No financial limit	Up to £100,000	Delegated to Chief Financial Officer / <b>DirectorsHeads of Service</b>	Up to £50,000	Up to £5,000 & delegated to Service Managers, Budget Holders & Service Officers as per Authorised Signatory list	No authority unless delegated by <b>DirectorHead of Service</b> - Up to £1,000	No authority unless delegated by <b>DirectorHead of Service</b> - Up to £1,000
Insurance and other settlements	No financial limit	No financial limit	Up to £100,000	Up to £50,000 & up to £10,000 delegated to Insurance team for small claims	No Delegated authority	No delegated authority	No delegated authority

## Section 9 - Finance, Contracts and Legal Matters

### 9.1 Introduction

#### 9.1.1 Financial management

The management of the council's financial affairs will be conducted in accordance with the financial rules set out in paragraphs 9.2 – 9.11 of this Constitution.

#### 9.1.2 Contracts

Every contract made by the council will comply with the Procurement Rules set out in paragraphs 9.12 – 9.30 of this Constitution.

#### 9.1.3 Legal proceedings

The ~~Head of Legal and Democratic Services~~ Director for Legal, Policy and Governance is authorised by the Scheme of Delegation to Officers set out in Section 10 of this Constitution to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the council or in any case where they consider that such action is necessary to protect the council's interests.

#### 9.1.4 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the council, it will be signed by the Chief Executive or the Director for Legal, Policy and Governance ~~Head of Legal and Democratic Services~~ or

other person authorised by the Director for Legal, Policy and Governance~~Head of Legal and Democratic Services~~, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

#### 9.1.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Director for Legal, Policy and Governance~~Head of Legal and Democratic Services~~.

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

9.1.7 The Common Seal will be affixed to those documents which in the opinion of the Director for Legal, Policy and Governance~~Head of Legal and Democratic Services~~ should be sealed. Sealed documents will be signed by any one of the following Officers of the council:

- (a) the Chief Executive; or
- (b) the Deputy Chief Executive; or
- (c) the Director for Legal, Policy and Governance~~Head of Legal and Democratic Services~~; or
- (d) the Legal Services Manager.

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

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## 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 put environmental sustainability at the heart of everything it does; enable its communities and invest in its places; encourage economic growth; and maximise the benefits to the community and council services of digital connectivity and technology.~~ 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 ~~Head of Strategic Finance and Property Services~~Director for Finance, Risk and Performance and the ~~Head of Legal and Democratic Services~~Director for Legal, Policy and Governance 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 ~~Heads of Service~~ Directors and their duly authorised officers

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The delegations that follow apply to the Chief Executive, Deputy Chief Executive and ~~Heads of Service~~ 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 **Head of Human Resource and Organisational Development** and except as detailed in the Officer Employment Procedure Rules.

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#### **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 ~~Head of Legal and Democratic Services~~[Director for Legal, Policy and Governance](#) where relevant.

## 10.7 Areas of responsibility

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

<b>Chief Executive and Deputy Chief Executive</b>	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.
<b>Head of Operations</b>	<a href="#">Leisure Services</a>

	<p><del>Waste, Recycling and Street Cleansing Management</del></p> <p><del>Parks and Open Spaces</del></p> <p><del>Grounds Maintenance</del></p> <p><del>Hertford Theatre</del></p> <p><del>Parking enforcement</del></p> <p><del>Environmental enforcement and Inspections*</del></p> <p><del>Stray Dogs</del></p> <p><del>Abandoned Vehicles</del></p>
<b>Head of Human Resources and Organisational Development</b>	<p><del>Organisational Development</del></p> <p><del>Payroll</del></p> <p><del>Training and Development</del></p> <p><del>Health and Safety</del></p> <p><del>HR Policy</del></p> <p><del>HR Services</del></p> <p><del>Employee Relations</del></p>
<b>Head of Communications Strategy and Policy Director for Regeneration, Customer and Corporate Services</b>	<p><del>BEAM</del></p> <p><del>Customer Services</del></p> <p><del>Corporate Support Hub</del></p> <p><del>Communications and Digital Media</del></p> <p><del>Parking Services</del></p> <p><del>Old River Lane</del></p> <p><del>Communications and Digital Media</del></p> <p><del>Customer Services</del></p> <p><del>Economic Development</del></p> <p><del>Improvement and Insight</del></p> <p><del>Business Development</del></p> <p><del>Corporate Policy</del></p> <p><del>Corporate Consultation</del></p>
<b>Head of Strategic Finance and Property Director</b>	<p><del>Financial Services</del></p> <p><del>Risk and Insurance</del></p> <p><del>Revenues and Benefits Shared Service</del></p> <p><del>ICT Shared Service Accountancy</del></p>

<p><b><u>for Finance, Risk and Performance</u></b></p>	<p>Audit          Transactional Finance          Treasury Management          Property and Estates          Facilities Management          Procurement          Risk          Insurance</p>
<p><b><u>Head of Legal and Democratic Director for Legal, Policy and Governance</u></b></p>	<p><u>Legal Services</u>  <u>Democratic Services</u>  <u>Electoral Services</u>  <u>Transformation</u>  <u>Information Governance and Protection</u>  <u>Shared Waste Service (Until August 2025)</u>  <u>Democratic Services</u>  <del>Legal</del>  <del>Electoral Services</del>  <del>Member and Civic Support</del>  <del>Freedom of Information</del>  <del>Data Protection</del>  <del>Land Charges</del>  <del>Scrutiny</del></p>
<p><b><u>Head of Housing and Health Director for Communities</u></b></p>	<p><u>Property Services</u>  <u>Housing Services</u>  <u>Licensing and Enforcement</u>  <u>Environmental Sustainability</u>  <u>Economic Development</u>  <u>Community Wellbeing and Partnerships</u>  <u>Shared Waste Services (from August 2025)</u>  <u>Housing</u>  <del>Environmental Health</del>  <del>Environmental Sustainability</del></p>

	<p>Licensing  Market operations  Community Safety  Safeguarding  Engagement and Partnerships  Public Health and Wellbeing  Emergency Planning</p>
<p><b>Head of Planning and Building Control Director for Place</b></p>	<p><u>Planning and Building Control (including Gilston)</u>  <u>Leisure, Parks and Open Spaces</u>  Environmental Health  <u>Land Charges and Street Naming and Numbering</u>  Section 106 Development Management  Planning Policy  Heritage and Conservation  Urban Design  Section 106 Agreements / Community Infrastructure Levy  Building Control  Planning Enforcement</p>
<p><b>Head of Shared Business and Technology Services (Strategic ICT Partnership Manager)</b></p>	<p>Business and Technology Shared Service</p>
<p><b>Head of Revenues and Benefits Shared Service</b></p>	<p>Revenues and Benefits Shared Service</p>

\*parts of this area may move to Housing and Health following a review

## 10.8 Officer Specific Delegations

Any delegation to an officer includes authority for any further delegation within the relevant Area of Responsibility, in the case of the Chief Executive or those acting as Chief Executive, this includes all ~~Heads of Service 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 ~~Head of Service 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 Heads of Service 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 Heads of Service 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 Head of Service/Director and Head of Legal and Democratic Services/Director for Legal, Policy and Governance;
- (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 ~~Head of Legal and Democratic Services~~Director for Legal, Policy and Governance/Monitoring Officer to make revisions and amendments to the list of Politically Restricted Posts maintained under Section 2 of the Local Government and Housing Act, 1989 and to give Certificates of Opinion in connection with applications for exemption;
- (q) to act as Returning Officer, and any variation thereof as appropriate to different elections, and to appoint from time to time such Deputy Returning Officers as appear necessary for the proper conduct of elections; and to act as the Electoral Registration Officer, and appoint deputy Electoral Registration Officers. In the event that the Chief Executive is absent or incapacitated, the Proper Officer for the purposes of exercising the functions of the Electoral Registration Officer shall be the ~~Elections Manager~~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.

## 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.

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~~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.

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### Heads of Service Directors

#### ~~10.11~~ Head of Human Resources and Organisational Development

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~~10.11.1~~ ~~10.10.2~~ Human Resource matters should be subject to the overall direction of the Head of Paid Service.

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~~10.11.2~~ ~~10.10.2~~ To interpret, administer and implement the council's organisational, employee development and human resources plans and policies in consultation with Leadership team.

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~~10.11.3~~ ~~10.10.2~~ To interpret and apply pay scales and conditions of service for all employees.

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~~10.11.4~~ ~~10.10.2~~ To administer the granting of awards and application of benefits in consultation with Leadership team.

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~~10.11.5~~ ~~10.10.2~~ To be responsible for an effective policy for the health, safety and welfare of council employees to be implemented at all levels.

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#### ~~10.112~~ Head of Legal and Democratic Services Director for Legal, Policy and Governance

~~10.112.1~~ To carry out all legal action as specified under Permissions above in consultation with the relevant

| Head of Service Director -or their appointed deputy in their absence.

| 10.112.2 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.

| 10.112.3 To carry out a review and submit a report to Council as to the allocation of seats in accordance with the Local Government and Housing Act 1989 political balance provisions.

| 10.112.4 To act as Chief Legal Officer to the Council and take all necessary steps in legal proceedings authorised by the council.

| 10.112.5 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.

| 10.112.6 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

- | 10.112.7 To negotiate and settle any claim or disputes without recourse to Court proceedings including the use of alternative dispute resolution.
- | 10.112.8 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.
- | 10.112.9 To certify resolutions and documents as being correct.
- | 10.112.10 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.
- | 10.112.11 To insert and cancel entries in the Local Land Charges Register and otherwise to take all steps in respect of searches.
- | 10.112.12 In consultation with appropriate Officers, to grant wayleaves to statutory undertakers.
- | 10.112.13 To undertake the role of Senior Responsible Officer under the council's Regulation of Investigatory Powers Act 2000 (RIPA) Policy.
- | 10.112.14 To fix charges for legal work carried out by the council, including for external bodies.
- | 10.112.15 To institute legal proceedings in respect of any contravention of any licences, permits or consents and/or any breach of any condition attached thereto.

10.1~~2~~1.16 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.

10.1~~2~~.17 To act as Deputy Electoral Registration Officer.

10.1~~2~~.18 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.

10.1~~2~~.19 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.

10.1~~2~~.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.

10.11.21 To authorise suitably qualified and experienced Officers to exercise powers and duties afforded to District Councils in the relevant legislation.

**10.1310.12 Head of Strategic Finance and Property Director for Finance, Risk and Performance**

10.12.1 10.13.1 To deliver, direct and manage the medium term financial planning of the organisation ensuring it is monitored and reported in a timely accurate fashion.

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~~10.13.2~~ 10.12.2 To deliver unqualified Statement of Accounts in accordance with legislative requirements.

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~~10.13.3~~ 10.12.3 To review listing decisions and compensation decisions for assets of community value.

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~~10.13.4~~ 10.12.4 To represent the council on the Management Board for the Hertfordshire Shared Audit Service (SIAS) and the Shared Anti-Fraud Service (SAFS).

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~~10.13.5~~ 10.12.5 Appoint Debt Recovery Agents for the whole or part of the district as the need arises.

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~~10.13.6~~ 10.12.6 Authorise and sign bank transfers and other payment types, including cheques and amendments to cheques.

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~~10.13.7~~ 10.12.7 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.

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~~10.13.8~~ 10.12.8 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.

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~~10.13.9~~ 10.12.9 To administer and manage the council's Collection Fund.

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~~10.13.10~~ 10.12.10 To set precept dates in agreement with precepting partners.

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~~10.13.11~~ 10.12.11 To administer the council's insurances fund.

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~~10.13.12~~ 10.12.12 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.

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~~10.13.13~~ 10.12.13 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.

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~~10.13.14~~ 10.12.14 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.

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~~10.13.15~~ 10.13.2 ~~To manage the council's property portfolio.~~

~~10.13.16~~ 10.13.2 ~~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.~~

~~10.13.17~~ 10.12.15 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.

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~~10.13.18~~ 10.12.16 In consultation with the appropriate Executive Member and ~~Head of Legal and Democratic Services~~ Director of Legal, Policy and Governance to prosecute or authorise the prosecution of persons committing malicious damage to council property.

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~~10.13.19~~ 10.12.17 To convey the freehold of electricity sub-station sites and to grant the necessary easements to electricity suppliers/distributors in respect of developments.

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~~10.13.20~~ 10.12.18 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.

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~~10.13.21~~ 10.12.19 To authorise Officers to discharge land drainage functions under the Public Health Act 1936 and the Land Drainage Act 1991.

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10.12.20 To approve and submit the annual National Non-Domestic Rates (NNDR1) return to the Government.

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10.12.21 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.

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10.12.22 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

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tax benefit payments to attend, as necessary, valuation and council tax tribunal hearings.

10.12.23 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.

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10.12.24 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:

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(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;

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(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

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

10.12.25 ~~10.14.5~~ 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.

10.12.26 4.6—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.

10.12.27 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.

10.12.28 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.

10.12.29 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.

10.12.30 10.14.10—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.

10.13.22

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10.12.31 To authorise suitably qualified and experienced Officers to exercise powers and duties afforded to District Councils in the relevant legislation.

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#### **10.14.10.13 Head of Revenue and Benefits Shared Service**

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~~10.14.110.12.27 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.~~

~~10.14.210.12.27 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.~~

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~~10.14.310.12.27 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.~~

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~~10.14.410.12.27 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:~~

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~~(a) 10.12.27.1.1.1 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) 10.12.27.1.1.1 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.~~

~~10.14.5 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.~~

~~10.14.6 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.~~

~~10.14.7 10.12.27 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.~~

~~10.14.8 10.12.27 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~~

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~~application shall be submitted to the relevant Executive Member for consideration.~~

~~10.14.9 10.12.27 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.~~

~~10.14.10 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.~~

### **10.15 10.13 Head of Planning and Building Control Director for Place**

~~10.13.1 10.15.1~~ 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>.

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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.



10.135.2 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;
  - (iii) where the application is a major application which the ~~Head of Planning and Building Control~~ 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 ~~Head of Planning and Building Control~~ Director of Place has notified the Chair of the Development Management Committee that the matter can be dealt with as a delegated decision;

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<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)

- (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~~Head of Planning and Building Control~~ 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

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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 Head of Planning and Building Control~~ shall brief the Chair of Development Management Committee and seek their confirmation as to whether a delegated decision is appropriate.

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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.

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

~~10.15.4~~ 10.13.4 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.

~~10.15.5~~ 10.13.5 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.

~~10.15.6~~ 10.13.6 To authorise the spending of collected s106 monies following notification to the Executive Member for Planning and Growth.

~~10.15.7~~ 10.13.7 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.

~~10.15.8~~ 10.13.8 In consultation with the Head of Legal and Democratic Services Director for Legal, Policy and Governance, 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.

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~~10.15.9~~ ~~10.13.9~~ In consultation with the ~~Head of Legal and Democratic Services~~ Director for Legal, Policy and Governance, 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.

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~~10.15.10~~ ~~10.13.10~~ 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.

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~~10.15.11~~ ~~10.13.11~~ 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.

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~~10.135.142~~ 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.

~~10.153.123~~ 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 ~~Head of Planning and Building Control~~ Director of Place, there has been no significant change since the refusal or dismissal in the Development Plan or in any other material considerations.

10.153.134 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.

10.135.145 To exercise the council's planning powers for control of demolition.

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

10.153.167 To determine applications for certificates of appropriate alternative development.

10.135.178 To determine applications for certificates of lawful use and development in relation to proposed used and existing use.

10.135.189 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.

- | 10.135.1920 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.
  
- | 10.135.201 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.
  
- | 10.135.212 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.
  
- | 10.135.223 After consultation with the ~~Head of Legal and Democratic Services~~ 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.
  
- | 10.135.234 To enter into Planning Performance and Extension of Time Agreements.
  
- | 10.135.245 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.

10.135.256To determine the submission of nominations for the registration of Assets of Community Value.

10.135.267To 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.

10.135.278To 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.

10.135.289To give screening opinions and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 2017 as amended.

10.135.2930 To determine fees for planning applications and planning performance agreements.

10.135.301To 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.

~~10.15.31~~ 10.13.32 To determine applications submitted for approval under the Building

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Regulations and made under the Building Act 1984 (as amended) and the Local Government (Miscellaneous Provisions) Act 1976.

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

10.135.343 To determine any footpath and bridleways matters including heir protection, creation, diversion, modification and extinguishment.

~~40.15.34~~ ~~10.13.35~~ 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.

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~~40.15.35~~ ~~10.13.36~~ To make minor amendments and/or corrections of a clerical, grammatical or editorial nature only to the wording of conditions, obligations, reasons and informatives.

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~~40.15.36~~ ~~10.13.37~~ To refuse an application where a planning obligation (including a deed modifying or discharging an existing obligation) acceptable to the ~~Head of Planning and Building Control~~ Director of Place and meeting the requirements of a decision of Development Management Committee (where relevant) has not been entered into.

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~~40.15.37~~ ~~10.13.38~~ 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.

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~~10.13.39~~ To discharge obligations under s.106 TCPA 1990 (or s.52 of the TCPA 1971) where ~~the Head of Planning and~~

~~Building Control~~ 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.

~~10.13.40~~ ~~10.17.4~~ Restriction of the use or closure of bowling greens during periods of drought.

~~10.13.41~~ ~~10.17.5~~ Control of all grounds owned by the council.

~~10.13.42~~ The removal, storage and disposal of abandoned vehicles under the Refuse Disposal (Amenity) Act 1978.

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~~10.13.43~~ 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.

~~10.13.44~~ To be identified as contact officer for the public under the Code of Practice of the Environmental Protection Act 1990.

~~10.13.45~~ To serve notices under the Environmental Protection Act 1990 and the Town and Country Planning Act 1990 acting in consultation with the Director for Law, Policy and Governance.

~~10.13.46~~ 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.

10.13.47 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.

10.13.48 To authorise suitably qualified and experienced Officers to exercise powers and duties afforded to District Councils in the relevant legislation.

10.15.38

## 10.1610.14 Head of Housing and Health Director of Communities

### Housing

10.16.1 10.14.1 To exercise the council's functions with regard to homeless persons.

10.16.2 10.14.2 To procure and/or manage temporary accommodation in pursuance of the council's homelessness duties and powers.

10.16.3 10.14.3 To write off arrears and debts arising from the discharge of homelessness powers and duties up to a maximum sum specified by the Head of Strategic Finance and Property Director for Finance, Risk and Performance.

10.16.4 10.14.4 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).

10.16.5 10.14.5 To determine levels of housing need, stock condition and market conditions.

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~~10.16.6~~ 10.14.6 To make representations on or objections to housing development applications which are not in the public interest in relation to meeting local housing need.

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~~10.16.7~~ 10.14.7 To draw up development and/or regeneration schemes with RPs and other partners and pay grants to RPs and others on approved development schemes.

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~~10.16.8~~ 10.14.8 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.

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~~10.16.9~~ 10.14.9 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 ~~Head of Legal and Democratic Services~~ Director for Legal, Policy and Governance as appropriate.

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~~10.16.10~~ 10.14.10 In all cases involving arrears of mortgage payments to the council and in consultation with the ~~Head of Strategic Finance and Property~~ Director for Finance, Risk and Performance and Director for Legal, Policy and Governance ~~Head of Legal and Democratic Services~~ or duly authorised Officers, to institute proceedings in the appropriate court to obtain an order for possession of the property and/or recovery of all monies remaining outstanding under the mortgage, legal charge or further charge as the case may be.

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10.14.116.11—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 and Environmental Health

10.146.12 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 ~~Head of Legal and Democratic Services~~Director for Legal, Policy and Governance, prosecutions of hackney carriage drivers and private hire vehicle drivers for road traffic offences and other drivers for criminal offences relating to taxi ranks.

~~10.16.13~~ 10.14.13 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.

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~~10.16.14~~ 10.14.14 To apply the powers and duties of enforcement afforded to a District Council in all legislation relating to Licensing and Environmental Health matters.

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~~10.16.15~~ 10.14.15 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 and Environmental Health unless reserved for determination by another body of the Council.

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~~10.16.16~~ 10.14.16 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 or Environmental Health matters unless in the case of contested matters reserved for determination by another body of the Council.

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~~10.16.17~~ 10.14.17 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 and Environmental Health legislation.

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~~10.16.18~~ 10.14.18 To appoint and instruct veterinary surgeons to act on behalf of the council.

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~~10.16.19~~ 10.14.19 To nominate Officers for the council and take appropriate actions as required under the National Assistance Act 1948.

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10.1~~46~~.20 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.

10.146.21 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. -

10.146.22 To give directions and make applications to Court in respect of unauthorised encampments in the District in consultation with the Head of Legal and Democratic Services Director for Legal, Policy and Governance as appropriate.

#### Health, Wellbeing and Community Safety

10.146.23 To determine requirements and make any necessary arrangements for CCTV cameras in public areas funded by the council.

10.146.24 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 Head of Legal and Democratic Services the Director for Legal, Policy and Governance, applications to court to conduct covert surveillance.

~~10.146.25~~ 10.14.25 To be responsible for emergency planning matters.

~~10.146.26~~ 10.14.26 To exercise the council's functions to promote community safety and deter anti-social behavior and fly-tipping.

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10.146.27 To act as the council's designated Lead Officer for Safeguarding, promote safeguarding and respond to safeguarding issues raised.

10.146.28 To devise and administer arrangements for distributing grants to improve the health and wellbeing of local people.

10.146.29 To make arrangements to promote environmental sustainability and reduce carbon emissions within the council and throughout the District.

Other

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

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

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10.14.32 To manage the council's property portfolio.

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10.14.33 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.

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10.14.34 To administer the Scheme for the collection of trade refuse.

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10.14.35 Approval of types and siting of litter bins provided by parish and town councils.

10.16.31

10.14.35 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.

10.14.36 To authorise suitably qualified and experienced Officers to exercise powers and duties afforded to District Councils in the relevant legislation.

10.14.37

## **10.17 Head of Operations**

~~10.17.1 To authorise appropriate action to be taken in respect of any contravention of any Order made under Section 35 of the Road Traffic Regulation Act 1984 (as amended) by persons at any car park(s) detailed within such an Order, subject to the outcome of any legal proceedings taken being reported to a subsequent meeting.~~

~~10.17.2 To charge users a fixed charge equivalent to the charge for the first variable charging period on those occasions when a short stay car park's variable charge equipment is temporarily out of commission.~~

~~10.17.3 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.~~

~~10.17.4 Restriction of the use or closure of bowling greens during periods of drought.~~

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~~10.17.5 Control of all grounds owned by the council.~~

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~~10.17.6 The letting of council gardens and car parks.~~

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~~10.17.7 The removal, storage and disposal of abandoned vehicles under the Refuse Disposal (Amenity) Act 1978.~~

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~~10.17.8 To administer the Scheme for the collection of trade refuse.~~

~~10.17.9 Approval of types and siting of litter bins provided by parish and town councils.~~

~~10.17.10 To determine, in the first instance, whether street cleansing is necessary in the interests of public health or the amenity of the area pursuant to the Environmental Protection Act 1990 Code of Practice on litter and refuse.~~

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~~10.17.11 To deal with requests for the provision of signs to prohibit litter or other nuisances within the highway or car parks, in consultation with the Leader.~~

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~~10.17.12 To be identified as contact officer for the public under the Code of Practice of the Environmental Protection Act 1990.~~

~~10.17.13 To serve notices under the Environmental Protection Act 1990 and the Town and Country Act 1990 acting in consultation with the Head of Legal and Democratic Services.~~

~~10.17.14 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 Head of Legal and Democratic Services being satisfied as to the sufficiency of the evidence.~~

~~10.17.15 To authorise suitably qualified and experienced Officers to exercise powers and duties afforded to District Councils in the relevant legislation.~~

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~~10.17.16 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 Head of Legal and Democratic Services.~~

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~~10.17.18 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.~~

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~~10.17.19 To consider objections received in relation to proposed Traffic Regulation Orders in in consultation with the Executive Member for Environmental Sustainability.~~

**10.158 Head of ICT Strategic Partnership Manager (or equivalent post-holder as provided by Stevenage Borough Council under the shared services arrangements)**

10.158.1 To develop the council's information systems, information technology and e-government strategies.

10.158.2 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.

10.158.3 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.

10.158.4 To advise on and provide resilient ICT hardware and software solutions to maximise the efficiency of the council's operations.

**10.169** **Director for Regeneration, Customer and Commercial Services Head of Communications, Strategy and Policy**

10.169.1 To lead interpretation of and promote council compliance with the Public Sector Equality Duty as part of the Equality Act 2010.

~~40.19.2~~ ~~10.16.2~~ To ensure compliance with Section 88 of the Localism Act regarding the registering of Assets of Community Value.

~~40.19.3~~ ~~10.16.3~~ To ensure compliance with the Government's Code of Recommended Practice on Local Authority Publicity pursuant to the Local Government Act 1986.

~~40.19.4~~ ~~10.16.4~~ To advise on best practice in public consultation in line with the Cabinet Office's Consultation Principles 2016 and any successor guidance or requirements.

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~~10.19.5~~ 10.16.5 To administer the council's Complaints Policy and liaise with the Ombudsman when complaints have been escalated.

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10.16.6 To take action against persistent and unreasonable complainants.

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~~10.19.6~~ 10.16.7 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.

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~~10.16.8~~ ~~10.17.2~~ To charge users a fixed charge equivalent to the charge for the first variable charging period on those occasions when a short stay car park's variable charge equipment is temporarily out of commission.

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~~10.16.9~~ ~~17.3~~ 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.

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10.16.10 To consider objections received in relation to proposed Traffic Regulation Orders in in consultation with the Executive Member for Environmental Sustainability.

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10.16.11 The letting of council gardens and car parks

~~10.19.7~~

10.16.12 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.

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10.16.13 To authorise suitably qualified and experienced Officers to exercise powers and duties afforded to District Councils in the relevant legislation.

## 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	<del>Head of Legal and Democratic Services</del> <u>Director for Legal, Policy and Governance</u> (Legal Services Manager nominated as deputy)
Section 151 Local Government Act 1972	Chief Financial Officer	<del>Head of Finance and Property Services</del> <u>Director for Finance, Risk and Performance</u>
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 (Elections Manager nominated as deputy)
Article 37 General Data Protection Regulations 2016/679	Data Protection Officer	Data Protection Officer

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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.	<del>Head of Legal and Democratic Services</del> <u>Director for Legal, Policy and Governance</u>
Section 84(1)	States that written notice of resignation must be given by Councillors to the proper officer.	<u>Director for Legal, Policy and Governance</u> <del>Head of Legal and Democratic Services</del>



Legislation	Function	Post Holder
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.	<a href="#">Director for Legal, Policy and Governance</a> <del>Head of Legal and Democratic Services</del>
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.	<a href="#">Director for Legal, Policy and Governance</a> <del>Head of Legal and Democratic Services</del>
Section 100(a) to (h) (excluding (f))	For all purposes connected in the Local Government Act 1972 and the Local Government Act 2000 concerned with the provision of information about the decisions made or to be made by councillors including access to agenda, reports, background papers, minutes and records of decisions.	<a href="#">Director for Legal, Policy and Governance</a> <del>Head of Legal and Democratic Services</del>

Legislation	Function	Post Holder
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.	<u>Head of Strategic Finance and Property Director for Finance, Risk and Performance</u>
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.	<u>Director for Finance, Risk and Performance Head of Strategic Finance and Property</u>
Section 146	Provides that the proper officer is to make a statutory declaration, or give a certificate, in order	<u>Director for Finance, Risk and Performance Head of Strategic Finance and Property</u>

Legislation	Function	Post Holder
	to allow for securities etc. to be transferred on change of name of local authority or change of area.	
Section 210(6) and (7)	Appoints the proper officer to be vested with certain powers in respect of charities.	Chief Executive
Section 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.	<u>Head of Legal and Democratic Services</u> <u>Director for Legal, Policy and Governance</u>
Section 228	Accounts of any Proper Officer to be open to inspection by any Member of the Authority.	<u>Director for Finance, Risk and Performance</u> <u>Head of Strategic Finance and Property</u>
Section 229(5)	Provides that the proper officer must certify any photographic copies of documents.	<u>Director for Legal, Policy and Governance</u> <del>Head of Legal and Democratic Services</del>
Section 234	Provides that any notice, order or other document which a local authority are authorized or	<u>Director for Legal, Policy and Governance</u> <del>Head of Legal and Democratic Services</del>

Legislation	Function	Post Holder
	required to give under any enactment may be signed on behalf 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.	<a href="#">Director for Legal, Policy and Governance</a> <del>Head of Legal and Democratic Services</del>
Schedule 12 Section 99	Conduct of meetings including requirements for notices to be given and sign summons to attend meetings of the Council and polls	<a href="#">Director for Legal, Policy and Governance</a> <del>Head of Legal and Democratic Services</del>
<b>Local Government Act 1974</b>		
Section 30	Proper Officer must give public notice of Local Government Ombudsman's Reports.	<a href="#">Director for Legal, Policy and Governance</a> <del>Head of Legal and Democratic Services</del>
<b>Local Land Charges Act 1975</b>		
Section 3(1)	Chief Land Registrar for the Register of Local Land Charges	<a href="#">Director for Legal, Policy and Governance</a> <del>Head of Legal and Democratic Services</del>

Legislation	Function	Post Holder
<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
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.	<del>Head of Strategic Finance and Property</del> Director for Finance, Risk and Performance
Section 116	Provides that the proper officer must give the authority's auditor notice	Director for Finance, Risk and Performance <del>Head of Strategic Finance and Property</del>

Legislation	Function	Post Holder
	of meetings held under s115.	
<b>Local Government and Housing Act 1989</b>		
Section 2	Proper Officer to hold a list of politically restricted posts.	<a href="#"><u>Director for Legal, Policy and Governance</u></a> <del>Head of Legal and Democratic Services</del>
<b>Local Government Act 2000</b>		
All	All references to the Proper Officer in the Local Government Act 2000 and subordinate legislation.	<a href="#"><u>Director for Legal, Policy and Governance</u></a> <del>Head of Legal and Democratic Services</del>
<b>Assets of Community Value (England) Regulations 2012</b>		
Assets of Community Value	Decisions under Assets of Community Value (England) Regulations 2012	<a href="#"><u>Director for Legal, Policy and Governance</u></a> <del>Head of Legal and Democratic Services</del>
<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 Head of Service 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.

# **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	<p>Employee means a person employed under a contract of service. “Labour relations matters” means any matters specified in section 218(1)(a)</p>

<p>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>	<p>to (g) of the Trade Union and Labour Relations (Consolidation) Act 1992. These matters also apply to office holders as to employees.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	
<p>6. Information which reveals that the authority proposes:</p> <p>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) To make an order or direction under any enactment.</p>	
<p>7. Information relating to any action or any action proposed to be taken in connection with the prevention, investigation or prosecution of crime.</p>	

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 ~~Clear Days~~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 many 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 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 Head of Service for Planning and Building Control~~ 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 ~~Head of Service for Planning and Building Control~~ 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 ~~Head of Service for Planning and Building Control~~ Director of Place at the earliest opportunity.
- 15.6.5 Members should promptly refer to the ~~Head of Service for Planning and Building Control~~ 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 ~~Head of Planning and Building Control~~ 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 ~~Head of Service for Planning and Building Control~~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 ~~Head of Service~~Director or those Officers who are authorised by their ~~Head of Service~~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 ~~Head of Legal and Democratic Services~~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 ~~Head of Service~~Director and the ~~Head of Legal and Democratic Services~~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 [Head of Service 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 [Head of Service 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 [Head of Service 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 [Head of Service 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 [Head of Service 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 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 ~~Head of Service~~Director using the declaration form in Appendix 3 if you wish to engage in other business or employment outside of East Herts Council. The ~~Head of Service~~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 ~~Head of Finance and Property~~Director for Finance, Risk and Performance (S151 Officer), the Head of Paid Service and the ~~appropriate Head of Service~~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 **Head of Service 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 (~~Head of~~  
~~Service~~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 Head of Service 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 **Head of Service 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 [Head of Service 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 [Head of Service 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 ~~Heads of Service~~ 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 ~~Head of Service~~Director.

# 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 Heads of Service Directors) will handle media interviews.
- (g) Other officers, with the agreement of the respective Head of Service 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 ~~Head of Service~~ 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.