

# *Supplementary Committee Agenda*



**Epping Forest  
District Council**

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## ***Constitution Working Group Thursday 28th September 2023***

**Place:** Virtual Meeting on Microsoft Teams

**Time:** 7.00 pm

**Democratic Services:** G Woodhall Tel: (01992) 564243  
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**6. CONSTITUTION REVIEW UPDATE (Pages 12 - 48)**

To consider the attached report summarising progress to date with the review of the Constitution project, including the work undertaken on the Scheme of Delegations.

**7. PROPOSED CHANGES TO THE AUDIT & GOVERNANCE COMMITTEE TERMS OF REFERENCE (Pages 49 - 56)**

To consider the attached report revising the Terms of Reference for the Audit & Governance Committee.

# Agenda Item 6

## **Report to Constitution Working Group**

**Date of meeting: 28 September 2023**



**Epping Forest  
District Council**

**Subject: Constitution Review Update**

**Officer contact for further information: N Boateng (01992) 564323**

**Democratic Services Officer: G Woodhall (01992) 564243**

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### **Recommendations/Decisions Required:**

- (1) That the Working Group review, consider and comment on the work undertaken so far compromising the proposed amendments to the Constitution's Scheme of Delegation.**

### **Report:**

- Epping Forest District Council's (EFDC) Constitution is being reviewed as part of the wider workstream in Democratic Services (Programme 25). The aim of the review is to produce a concise, streamlined, user friendly document where the information is easily accessible.
- To determine best practice, we analysed and compared the Scheme of Delegation of multiple Councils in regions such as North London, South London, Hertfordshire, Essex, and the of South England. Best Practice was identified and specific areas for improvement in EFDC's Constitution highlighted.
- The main trend across the Councils was that the Scheme of Delegation was set out in bullet point lists rather than in tables. This instantly made them easier to read and the horizontal format kept consistent throughout the entirety of the document. Another common practice was to have the role of officer as a heading then any relevant delegation listed underneath. EFDC's delegations are listed alphabetically which makes finding a particular officer's delegations difficult to find.
- In comparison to other schemes of delegation EFDC's uses lots of legal jargon. Additionally removing large sections of legislation/statutory instruments from delegations will aid simplification and reduce the size. We could either reference the legislation without reproducing the wording or provide hyperlinks to it.
- The use of a Terms of Reference page or Key was recorded in many of the Councils Scheme of Delegations. A simple text box detailing the role of the officers where any shorthand or alternative references were used. EFDC does have a Terms of Reference page however it appears cluttered with information that may not be necessary, the table with 'Service Director Officer Role' and 'Current Services', as an example.
- It was also agreed that the overall accessibility of EFDC's Constitution does not meet the standard that it should as a Local Authority document. Future drafting or amendment of the Constitution should consider the Web Content Accessibility Guidelines (WCAG) to improve accessibility to everyone, including users with impairments to their vision, hearing, mobility and thinking and understanding. This can be achieved through the application of WCAG design principles stated on the GOV.UK Service Manual. It was not typical to see minutes or original authority details noted in the Scheme of Delegation in the Councils reviewed. When cited in EFDCs Constitution

it was considered this information did not add clarity or relevance to the information. However, as this information is needed by some users it is recommended that hyperlinks could be utilised.

7. EFDC was the only Council reviewed to use specific officer names or initials in the Scheme of Delegation. Not only does this create room for administrative errors in circumstances whereby officers may leave or move around the Council and the document is not updated, but it is also done inconsistently with officers being named for one delegation but only their role being specified for the next. It is suggested that only roles of officers should be used going forward.

#### **Resource Implications:**

The recommendations of this report seeks to ensure that the Council's Constitution remains fit for purpose.

#### **Legal and Governance Implications:**

The Council's Constitution sets out procedures and rules for the operation of its functions and responsibilities.

#### **Safer, Cleaner, Greener Implications:**

There are no implications arising from the recommendations of this report in respect of the Council's commitment to the Climate Local Agreement, the corporate Safer, Cleaner, Greener initiative, or any crime and disorder issues within the district.

#### **Consultation:**

The proposed revisions to the Constitution have been subject to consultation with the Monitoring Officer.

Following comments and direction from the CWG, the proposed changes will be taken to the Leadership team.

#### **Background Papers:**

None.

#### **Risk Management:**

The Council's Constitution sets out procedures and rules for the operation of its functions and responsibilities.

#### **Equality:**

There are no equality implications arising from the recommendations of this report.

Appendix 1  
Amended Scheme of Delegation

### Part 3 – Scheme of Delegation Introduction

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The functions of the Council comprise all its legal duties (the things it must do) and its powers (the things it may do). These functions are divided into 'Non-Executive Functions' which are the responsibility of the full Council, and 'Executive Functions' which are the responsibility of the Council's Executive.

Non-Executive Functions are those functions that Parliament has stated must be exercised by the Council or which as a matter of local choice, the Council has reserved to itself. These functions may be exercised by the Full Council, or be delegated to a Council Committee, Sub-Committee, Area Committee, or a Council Officer.

Executive Functions are all the other functions of the Council. Legally, the Leader of the Council can exercise all the Council's Executive Functions. The Leader of the Council may allocate Executive Functions between:

- The Executive as a whole;
- Individual Executive members;
- Committees of the Executive;
- Area Committees; and
- Officers of the Council ('Officers')

The Leader of the Council must maintain a Scheme of Delegation recording the allocation of executive functions.

Parliament has identified those functions that are Non-Executive Functions and those that are Executive Functions. There are several functions that Parliament left up to the Council to decide if they are non-executive or executive. These are known as 'Local Choice Functions'.

This part of the Constitution sets out which individuals and bodies within the Council are responsible for carrying out particular functions.

Please note that Epping Forest District Council refers to the 'Executive' as the 'Cabinet' and will refer to it as so throughout the Scheme of Delegation.

### General Principles

- (a) This scheme delegates the powers and duties of the Executive to Cabinet Members and officers as a partnership.
- (b) This scheme delegates powers and duties within portfolios and includes powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation as well as authorising the affixing of the Common Seal.
- (c) This scheme operates under Sections 9D to 9DA of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 and all other powers enabling.
- (d) Officers and Cabinet Members shall keep members (especially ward members) properly informed of activity and its implications arising within the scope of these delegations.

### General Limitations

- (a) Before taking a decision, a Cabinet Member shall receive advice from the appropriate officer.
- (b) Any exercise of delegated powers shall be subject to a policy framework approved by the Council or the policies approved by the Cabinet from time to time including the Employment Policies (and Disciplinary Procedures), Equal Opportunities, Service Delivery Policies, and shall be guided by the relevant Codes of Conduct or Council protocols.
- (c) Any exercise of delegated powers shall be subject to any statutory restrictions, standing orders, financial regulations and procurement rules.
- (d) In exercising delegated powers, Cabinet members and officers shall not go beyond the provision in the revenue or capital budgets for their service except to the extent permitted by financial regulations and procurement policy.

### General Provisions

- (a) This scheme includes the power for officers further to 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 officer. Sub-delegations shall be recorded and kept by the relevant Director.
- (b) All action taken under the terms of these delegations shall be properly documented.
- (c) It shall always be open to an officer either to consult with the appropriate Cabinet member on the exercise of delegated powers, or not to exercise delegated powers but to refer the matter to the Cabinet.

- (d) It shall be open to a Cabinet member to determine that the exercise of their delegated powers is not appropriate in cases where a Chief Officer or the Monitoring Officer recommends reference to the Cabinet, where consultation with other members indicates that the matter should be referred to the Cabinet or where the Leader of the Council so directs.
- (d) In exercising delegated powers, officers shall consult with other appropriate officers and shall have regard to any advice given.
- (e) In this scheme "officer" means the holder of any post named in this scheme as having delegated powers and duties.

## **Specific Delegations**

### **1. Leader of Council**

Exercise of the powers and duties of the Leader of the Council in accordance with Section 9E of the Local Government Act 2000 including:

- (a) appointment of other Cabinet members up to a maximum of 9;
- (b) allocation of responsibility for executive functions to Cabinet Members and Service Directors;
- (c) establishment and terms of reference of Cabinet Committees;
- (d) approval of representatives on outside organisations directly involved in the carrying out of executive functions;
- (e) appointment of a Deputy Leader of the Council.

### **2. Cabinet Members**

Decisions on executive functions falling within the allocated Cabinet service portfolio, and which are not delegated to officers.

### **3. Officers**

May take any decision which:

- (a) implements a policy or decision previously approved or taken by the Council, the Cabinet or a Cabinet member;
- (b) facilitates or is conducive or incidental to the implementation of a policy or decision previously taken by the Council, the Cabinet or a Cabinet member;
- (c) relates to the management of the human, material and financial resources made available for carrying out the functions for which they are responsible; and
- (d) matters delegated by the Council, the Cabinet, a Committee or Sub-Committee from time to time under this scheme.

(e) matters that are legally permissible and within that officer's area of control (see table and key below):

### **Special Circumstances**

- (a) Where the proposed decision affects more than one service portfolio, there shall be an obligation for the other Cabinet members to be consulted before a decision is made.
- (b) Where a decision is of corporate significance or where there is a conflict of view, such matter shall stand referred to the Cabinet for consideration.
- (c) Cabinet members shall, in the exercise of delegated powers, consult with the Chairman of the appropriate Overview and Scrutiny Committee and the ward Councillor(s) where appropriate.
- (d) Cabinet Members shall have regard to the requirements of the Council's petitions procedure when making decisions on matters raised in such representations.

## Executive Functions – Delegation by the Leader of the Council

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### Chief Executive

1. **Assets of Community Value – Localism Act 2011 s87-92** To determine Appeals made by applicants on determinations made above (Leader Decision – 20 December 2019) (EXA6)
2. **Compulsory Competition – Authority for the Council to Submit Bids for Work Inside the District** To submit bids for work inside the District, to utilise spare capacity/manpower only (Council (Minute 74(3) – 20.23.88)) (EXC6)
3. **Compulsory Competition – Authority for the Council to Submit Bids for Work Inside the District** To refer to the Management Board and through them to the Cabinet any proposal involving the authorisation of bids for work outside the district but only in the context of agreed policy for shared services (Council(Minute 74(3) – 20.12.88)) (exc7)
4. **Securities** To act as proper officer for the purposes of Section 146 (1)(a)(b) of the Local Government Act 1972 (declarations and certificates regarding (Policy and Resources Committee (Minute 3 – 11.10.73)) (EXS5)
5. **Commercial Tenancies –** To sign notices and answers to originate applications for new tenancies under Part II of the Landlord and Tenant Act 1954 (Policy & Co-ordinating Committee(Minute 66(a) – 4.12.90))(EXC4)

### Chief Financial Officer

1. **Tax Base** To declare the Council's Domestic and NNDR Tax Bases in accordance with the Local Government Finance Act 1992 and the Local Authorities (Calculation of Tax Base) (England) Regulations 2012 and any subsequent legislation (Council Minute 127 – 23.4.13) (EXT1)

### Monitoring Officer

1. **Assets of Community Value – Localism Act 2011 s87-92** To determine nominations made by bodies set out within section 89 of the Localism Act 2011 on Assets of Community Value in accordance with the Council's scheme (Leader Decision 20 December 2019) (EXA6)

### Legal Services Manager

1. **Physical Assaults on Staff-** In the event of the Crown Prosecution Service not proceedings after physical assault on a Council employee, to give instructions to prosecute where they consider that the Attorney General's guidelines for prosecution in a private prosecution for assault are satisfied (Policy and Co-ordinating Committee (Minute 99 – 21.11.89)) (EXP2)
2. **Squatters – Eviction** To take such urgent action as necessary to secure the vacation of any Council properties, which are occupied by squatters (Housing Committee (Minute 121 – 8.11.77)) (EXS7)
3. **Warrants for Entry** To make applications to the Magistrates Court for entry pursuant to the Environmental Protection Act 1990, Public Health Acts 1936-61, Control of Pollution Act 1974, Clean Air Acts 1956-68, Food Safety Act 1990, Building Act 1984, Housing Acts 1957-85 and Local Government and Housing Act 1989 (Development Committee (Minute 60 – 6.1.93) Public Health Committee (Minute 52 – 17.11.92) Housing Committee (Minute 56 – 24.11.92)) (EXW2)
4. To make applications to the Magistrates' Court for warrants of entry in accordance with the

Building Act 1984 and the Town and Country Planning 1990 (Development Committee (Minute 60 – 6.1.92)) (EXW2)

5. **Sunday Trading – Car Boot Sales** To institute proceedings in respect of such sales where complaints have been received and satisfactory evidence is available (Public Health Committee (Minute 46 – 19.9.84)) (EXS12)
6. **Orders – Mortgage Arrears** To obtain and execute in the case of mortgage arrears where an Order for possession is granted by the Courts, a warrant for the possession of a property. To offer for sale on the open market any property subsequently repossessed (Housing Committee (Minute 74 – 4.3.92)) (EXP4)

#### Housing and Property Service Director/Nominated Level Two Officer

1. **Appropriations of Land –**
  - (a) To seek the consent of the Secretary of State for Communities and Local Government, pursuant to Section 19 of the Housing Act 1985, to appropriate land held for housing purposes and identified for Council housebuilding for planning purposes; and
  - (b) Subject to the receipt of such consent, to advertise the Council's intention to make the appropriation in accordance with the provisions of Section 122(A) of the 1972 Act (Cabinet (Minute 14(4) – 6.10.14)) (EXA5)
2. **Agricultural Dwellings** To accept applications for rehousing and offer suitable alternative accommodation where the Agricultural Dwelling House Advisory Committee advises that the property is required for occupation by an agricultural employee in the interest of efficient agriculture (Housing Committee (Minute 74 – 4.3.92)) (EXA2)
3. **Buy – Back of Former Council Housing** To decide, in consultation with the relevant Portfolio Holder, whether or not the Council would wish to exercise its pre-exemption rights to purchase former Council properties previously sold under the Right to Buy (RTB), in accordance with the Housing Act (Right of First Refusal) (England) Regulations 2005, subject to a sufficient amount of unallocated "One for One Replacement" RTB Receipts or Section 106 financial contributions of affordable housing being available (No Minutes?) (EXB5)
4. **Development Agreements** To enter into Development Agreements with private developers, and agree terms for the purchase, for affordable rented housing required to be provided by developers in accordance with Section 106 Agreements, where an opportunity is presented that is considered suitable and appropriate subject to the value being no more than the value considered by the Council to require a key decision ( Cabinet Minutes 25(3) – 23.7.15)) (EXD2)
5. **Garages** To sell isolated garages in accordance with the Council's policy (Portfolio Holder Decision HSG-029 – 2009/10) (EXG1)
6. **Hardstandings – Council Houses:**
  - (a) To approve, subject to satisfactory works to boundary walls, hedges and fences and other necessary works and also Essex County Council being satisfied as to the standard of footpath crossings, applications by tenants to construct car hardstandings in front gardens; and
  - (b) To apply the above policy to hardstandings provided by tenants without permission (Housing Services Committee (Minute 155 – 12.2.80)) (EXH1)
7. **Homes and Communities Agency – Short Form Agreements** That the Service Director (Housing and Property Services) be authorised to enter into Short Form Agreements with the Homes and Communities Agency for all (Council housing) developments, to enable affordable rents to be charged for the properties built under the Housebuilding Programme, and that the "Provider Representative" named in the Agreements be a senior figure at East Thames Group (Council Housebuilding Cabinet Committee (Minute 4(5) – 10.7.13)) (EXH2)
8. **Housebuilding Programme – Allocation of Funding to Schemes** That, once the Cabinet Committee has authorised the use and provisional level of subsidy required for individual developments and/or development packages, the Service Director (Housing and Property

Services) be authorised to allocate funding from the sources listed in Minute 5 (1) of the Housebuilding Cabinet Committee held on 10th July 2013 to individual developments and/or development packages – utilising the most appropriate source of funding for the development(s), having regard to the time limits within which they must be utilised - up to and in excess of the provisional level approved by the Cabinet Committee, once tenders to undertake the works have been received from contractors, subject to:(a)The amount allocated being no more than 15% of the level provisionally approved by the Cabinet Committee;(b)Sufficient funds being available at the time of allocation; and (c)The Cabinet Committee receiving a report to its next meeting on the amount of subsidy allocated, and its source of funding (Council Housebuilding Cabinet Committee (Minute 5(3) – 10.7.13)) (EXH3)

Note - Minute 5 (1) of the Housebuilding Cabinet Committee held on 10th July 2013 lists the following sources of funding:

- Loans from PWLB
  - Capital receipts from additional RTB sales covered by the Agreement with CLG
  - Current and future financial contributions for affordable housing from Section 106 Agreements
  - Capital receipts from the sale of HRA land or building, where the Cabinet has specifically agreed that they should be used to help fund the Council Housebuilding Programme
  - Grant from the HCA
  - Any other external funding sources.
9. **Housing Accommodation – Allocation** To accommodate accommodation in accordance with the Housing Allocations Scheme (Housing Committee (Minute 125- 27.1.97)) (EXH4)
  10. **Housing Accommodation – Designation for Elderly** To cancel designations (Housing Committee (Minute 49 – 30.10.91)) (EXH5)
  11. **Housing Accommodation – Tenancies for ‘Live In’ Carers** To grant requests to provide or extend joint tenancies to ‘live in’ carers where such requests are considered to be justified (Housing Committee (Minute 41(20) & (21) – 17.9.96)) (EXH6)
  12. **Housing Defects - Planning Applications for Reinstatement Works** To submit applications for deemed planning consent in connection with the reinstatement of all Council owned designated defective dwellings (Housing Committee (Minute 93(b) – 11.3.87)) (EXH7)
  13. **Housing Land – Use for Community Events** To grant licences for community events to be held on housing land in the future, subject to consultation with Ward Members and local residents (where residential properties are located nearby) and all health and safety insurance requirements being met by the organisation staging the event (Portfolio Holder Decision (1.3.04)) (EXH8)
  14. **(IN CONSULTATION WITH THE APPROPRIATE PORTFOLIO HOLDER) Housing Land – Surplus Plots** To negotiate, agree terms and dispose of surplus plots of garden land (in consultation with the relevant Portfolio Holder and appropriate Ward Members) as identified by the Council (Council (Minute 23(7)(2) -29.6.82) Housing Committee (Minute 116(4) – 26.1.98)) (EXH9)
  15. **Housing Options Consortium** To exercise the Cabinet's functions in respect of the Housing Options Consortium, being a partnership of local authorities of which the Council is a member (Cabinet (Minute 155 – 6.2.06)
  16. **Housing Register Rules – Waiving** To waive Housing Register Rules where the Service Director (Housing and Property Services) considers there are good grounds for so doing (Housing Committee (Minute 74 – 4.3.92)) (EXH12)
  17. **Housing – Mutual Exchanges** To approve applications under the Mutual Exchange Scheme (Housing Services Director Committee (Minute 6(a)(iii) – 29.10.73)) (EXH13)

18. **Off Street Car Parking Schemes** To submit planning applications for future off-street parking schemes at the appropriate time after the resident consultation exercise (Cabinet (Minute 151(10) – 18.4.11)) (EXO2)
19. **Renewal of Leases With Narco** To renew leases (and any subsequent leases) on expiry for a further 5 years on the 12 properties currently leased to NACRO provided there is a continuing need to accommodate vulnerable younger homeless applicants (Housing Portfolio Holder Decision HCS-004-2020/21) (EXR2)
20. **Rent Arrears – Deceased Tenants** To write off rent arrears in respect of deceased tenants, where there is no means of recovering the debt (Housing Management Sub-Committee (Minute 152(c)(2) – 11.3.80)) (EXR3)
21. **Sale of Council Houses – Discounts** To determine, under Part V of the Housing Act 1985, applications for discounting of entitlement periods where a potential purchaser lives with their parents (Council (Minute 24(2) – 30.6.81)) (EXS2)
22. **Sale of Council Houses – Restrictive Covenants, Minor Extensions and Alterations** To deal with applications for minor extensions or alterations in sold Council houses in accordance with the terms of the house sales agreement. To agree, in consultation with the Portfolio Holder, future requests for release of restrictive covenants to allow development within the curtilage of former Council properties, prior to planning permission being obtained. To negotiate terms for the release of covenants agreed by the Service Director (Housing and Property Services), subject to the outcome being reported to the Portfolio Holder for approval (Council (Minute 40(4) – 15.7.86) Housing Committee (Minute 117(5) & (6)) (EXS3)
23. **Sale of Council Houses – Valuations** To carry out all valuations in respect of sale of Council houses (Council (Minute 11(c) – 2.6.77)) (EXS4)
24. **Supporting People – Signing of Contracts** To sign the Supporting People “Block Subsidy” and “Block Grants” contracts with Essex County Council for 2003/03, and subsequent years, in order to receive funding from the Essex Supporting People Commissioning Body for the provision of support services (Portfolio Holder Decision H/026/2002-3) (EXS13)
25. **Tenancies – Council Houses** To allocate tenancies in accordance with the Housing Allocation Scheme (Housing Services Committee (Minute 6(a)(iii) – 29.10.73)) (EXT3)
26. **Tenancies – Demoted Tenancy Orders** Inter alia:
  - (1) To serve demoted tenancy notices in appropriate cases;
  - (2) To apply to the County Court for Tenancy Demotion Orders and subsequent Possession Orders in appropriate cases (Portfolio Holder Decision 23.8.04) (EXT4)
27. **Tenancies – Service** To accept any application for priority Council housing in cases where a tenant of service accommodation reaches retirement age after having occupied the accommodation for a minimum of 15 years (Housing Management Sub-Committee (Minute 33(c)(2) – 15.5.74)) (EXT5)
28. **Use of Open Space on Land Held Under Housing Act Powers** To agree or refuse (in consultation with Ward Members), events managed by Town and Parish Councils or other organisations on any land held under Housing Act powers; provided the Council enters into an Agreement with the organisation meeting the Council’s required conditions (Housing Portfolio Holder Decision HSG/33/2013-14) (EXU1)
29. **Warrants of Distraint** To issue warrants of distraint in housing cases (Housing Services Committee (Minute 6(d)(1) – 29.10.73)) (EXW1)
30. **Possession Orders (rent arrears/gas safety inspections and other related actions)-**
  - a) To serve notices of seeking possession for any of the grounds contained in Schedule 2 of the Housing Act 1985;
  - (b) Where considered appropriate, to serve notices to quit in cases where the tenant is not a secure tenant as defined in the Housing Act 1985;
  - I To institute proceedings in the County Court for the possession of properties following service of a notice seeking possession or a notice to quit;

- (d) To institute proceedings in the County Court for the recovery of rent, court costs and service charges; and
- (e) To obtain and execute a warrant for eviction where possession has been awarded by the Court. In respect of secure and non-secure tenancies of Housing Revenue Account properties:
- (f) to approve and sign Notices and Seeking Possession and Notices to Quit;
- (g) to initiate proceedings in the County Court for possession and the recovery of rent, mesne profits, service charges and court costs, in accordance with relevant legislation; and
- (h) to seek and execute warrants of execution for possession; and
- (i) to undertake the actions set out in (a), (b) and (c) above, in respect of nonsecure tenancies and licences at the Council's Homeless Persons' Hostel (Norway House) including the eviction of any homeless person who defaults in the payment of accommodation charges for four successive weeks or more.
- (j) Approve and sign Notices of Seeking Possession on the grounds of a breach of tenancy conditions for not allowing the Council access to undertake required repairs and maintenance;
- (k) Initiate proceedings in the County Court for possession or to provide access for the purpose of undertaking the statutory annual Gas Safety Inspection in accordance with the relevant legislation; and;
- (l) Seek and execute warrants of execution for possession authorised by the court (Housing Committee (Minute 75 – 14.11.95)) (Housing Committee(Minute 46 – 12.9.2000)) (Housing Management Sub Committee(Minute 161-15.2.77)) (Portfolio Holder Decision (24.3.2004)) (EXP5)

**31. Authority for Right to Buy (RTB) Sales and Post Completion Related Matters – To sell the freehold or leases of properties in accordance with the current legislation.**

To re-mortgage the property without repaying the discount. If the reason the loan is requested for is one specified by statute the Council has no discretion but to consent. There may also be additional borrowing involved (which the Council would agree to postpone its charge for in accordance with statute). Re-mortgages where the Service Director (Housing and Property Services) agrees, if the Council wishes to exercise its discretion and agree to postpone its charge in respect of additional borrowing, which is not to be used for one of the statutory 'approved purposes'.

If the owner of a RTB property intends to sell within 10 years, the Council must first be offered the right to buy it back. The Council would either proceed to buy the property back (the purchase being in accordance with statute) or issue a consent to the Land Registry allowing the property to be sold on the open market. To the release of a restriction/charge on the title to a property if the owner repays the discount or the relevant time period has lapsed. (i.e. for matters relating to repayment of discount, discharge of legal charge, redemption of mortgage(s) etc.) For leaseholders, to extend the term of a lease for an additional ninety years from the end of the current lease term. The provisions of the new lease and method of valuation are specified by statute. For leaseholders, to purchase the freehold of a block of flats and the estate if sufficient numbers of tenants apply to the Council. Again, the process to be followed is set out in legislation. For subsequent purchasers of freehold properties to enter onto a Deed of Covenant to ensure that they are bound by the positive covenants mentioned in the Transfer (which do not run with the land).

To enter into Deeds of Rectification/Variation to enable us to rectify errors relating to title, plans etc. To give delegated authority to the Service Director (Housing and Property Services) to determine requests for the release of covenants restricting development within the curtilages of properties previously sold under the Right to Buy, and whether or not the release should be agreed, having regard to what would be the reasonable viewpoint of both parties, noting that the Council is not entitled to any payment for the release of the covenant (other than payment of the Council's reasonable legal costs), in accordance with current case law. (The Housing Act 1985

and various other acts and subsequent legislation (i.e. statutory instruments) govern the Right to Buy sales and other related matters; the list mentioned above is not exhaustive. Any future legislation will also impact the way such matters are dealt with.)

To sign documentation/letters that require execution by way of signature, such as, pre-emption rights consent, exempted disposal consent, postponement letters and similar consents. Housing Portfolio Holder Decision HSG-001-2018/19 (EXR5)

#### Community and Partnerships Service Director/Nominated Level Two Manager

1. **ASB Crime & Policing Act 2014** Part 2 Criminal Behaviour Orders (CBO) Section 29 To act in cooperation with the Chief Officer of Police when carrying out a review of a CBO on a person under 18 using existing ASB process (10.5) as attached.Part 4, Chapter 3, Section 77 (2) (b) – Closure Notices To issue closure notices of 24 and 48 hours pursuant to the above section (Leader Decision 26 April 2016)
2. **Nuisances** Authority to make closure orders under Section 40 of the Anti-Social Behaviour Act 2003 and to give notices of cancellation of closure orders under Section 41 of that Act (Cabinet (Minute 142- 14.3.05)) (EXN4)
3. **Private Sector Housing – Assistance** To exercise the powers and duties under relevant legislation (Cabinet (Minute 109 – 18.12.06)) (EXP7)
4. **Private Sector Housing – General** To exercise the powers and duties set out in Annex A including powers of entry by warrant where this is not specified in the legislation listed (Cabinet (Minute 184 – 10.4.06) (EXP8)
5. **Fees and Charges – Leisure** - To approve the level of fees and charges within the parameters outlines within the Lesiure Management Contract. To Introduce individual pricing chargers for Community Health and Wellbeing and Museum, Heritage and Culture generally in line with the current level of inflation, or in certain circumstances at a rate which reflects the truwe cost of providing the service (Leisure Services Committee(Minute 5 – 23.5.91))(EXF1)

#### Planning Service Director/ Any Level 2 Manager

1. **Building Act 1984** – To authorise designated postholders to exercise powers under Section 95 of the Building Act 1984 to enter premises in connection with the enforcement of the Building Regulations (Development Committee(Minute 19-30.05.2000)) (EXB1)
2. **Building Regulations** - To determine applications under the Building Regulations and associated legislation including the Building Act 1984 (Development Committee(Minute 23(1)- 6.3.74)) (Council Minute (Minute24(1)- 9.7.91)) (EXB2)
3. **Building Act 1984** - To act as Proper Officer for the purposes of Section 78 of the Building Act 1984 (Development Committee (Minute 35(1) – 15.7.99)) (EXB2)
4. **Building Act 1984** – To carry out the following functions under the Building Act 1984:
  - a) Sections 35,34a and 36 – serve notices requiring work contravening building regulations to be removed or altered to achieve compliance;
  - b) Section 77 – approve applications to a Magistrates' Court for an order requiring dangerous buildings or structures to be made safe;
  - c) Section 79 – serve notices where it appears that a building is by reason of ruinous or dilapidated condition seriously detrimental to the amenities of the neighbourhood; and
  - d) Section 81 – serve notices specifying certain matters and conditions in relation to the demolition of buildings.(Development Committee (Minute 35(2) – 15.7.99)) (EXB3)

5. **Party Wall Act 1996** – Section 10(8) To act as Appointed Officer Pursuant to Section 10(8) of the Party Wall Act 1996 which allows the appointment of a third surveyor to resolve party wall disputes (Leader Decision dated April 2016)(EXP1)

Commercial and Regulatory Service Director/ Any Level 2 Officer

1. **Building Control – Vetting of Applications** – To enter into working arrangements with other local authorities within East Anglia for the checking of one (Minute 66 – 16.1.90) another's building regulation activities on a consultancy basis, this arrangement to be activated where staffing levels fall below establishment or volume of applications submitted exceeds staffing capacity (Personall Sub-Committee(Minute 138 - 20.3.90))(EXB4)
2. **Commerical Tenancies – Service of Notice** – To sign notices and answers to originate applications for new tenancies under Part II of the Landlord and Tenant Act 1954 (Policy & Co-ordinating Committee(Minute 66(a)- 4.12.90))(EXC4)
3. **Debts** – To take steps to enforce a debt following the commencement of bankruptcy proceedings, subject to action being reported to the cabinet (Council(Minute 52- 12.12.2000))(EXD1)
4. **Energy management & conservation** – To implement the Council's policy (Policy \* Co-Ordinating Committee(Minute 78- 1.12.81))(EXE1)
5. **Nuisances** – Authority to make closure orders under Section 40 of the Anti-Social Behaviour Act 2003 and to give notices of cancellation of closure orders under section 41 (Cabinet(Minute 142-14.3.05))(EXN4)
6. **North Weald Airfield – Non Commercial Lettings** -
  - a) To negotiate and produce agreements and licences for all regular bookings and single events (of a non-public character) which comply with the standard licence agreement and fees operated by the Council;
  - b) To negotiate in liaison with the Airfield Manager, any arrangements regarding use of the Airfield (except those which fall under item (1) above, and where appropriate, to draft and execute appropriate agreements or licences for all airfield uses including any negotiated under (a) above; and
  - c) That subject to compliance with the Council's policy to sanction the Concessionary Hire of Leisure Facilities by, or on behalf of, registered charities, for fundraising events.(Council(Minute 138- 28.4.09)) Portfolio Holder Decision L/001/2005/6 dated 20.5.05 (EXN2)
7. **Pollution prevention** – Authority under the Road Traffic 9Veichle Emissions)(Fixed Penalty)(England)Regulations 2002 to issue fixed penalty notices in respect of idling vehicles (Environment Portfolio Holder Decision ENV-004-2017/18)(EXP3)
8. **Private Sector Holusing – General** – To exercise the powers and duties set out in Annex A including powers of entry by warrant where this is not specified in the legislation listed. To authorise updated to the list of legislation set out in Annex A (Cabinet (Minute 184-10.4.06))(EXP8)
9. **Restrictive covenants – housing in multiple occupation** – To agree brequests to vary restrictive covenants on former Council houses, in order to grant permission foer their use as privately rented shared accommodation, provided all of the conditions have been met (Cabinet(Minute 46 – 12.9.11))(EXR4)
10. **Rent arrears – deceased tenants** – To write off rent arrears in respect of deceased tenants, where there is no means of recovering the debt (Housing Management Sub-Committee(Minute 152(c)(2) – 11.3.80))(EXR3)
11. To exercise those functions relating to the management and provision of the Environmental Health Service set out in the list of environmental health legislation in Annex A including where necessary, powers of entry by warrant (Cabinet (Minute 184 –

10.4.06))(EXS1)

12. **Waste Disposal on Land** -To submit representations to Essex County Council on any proposed Licence (Public Health Committee(Minute 144(a) -9.3.77))(EXW3)
13. **Possession Orders (rent arrears/gas safety inspections and other related actions)**
  - 
  - a) To serve notices of seeking possession for any of the grounds contained in Schedule 2 of the Housing Act 1985;
  - (b) Where considered appropriate, to serve notices to quit in cases where the tenant is not a secure tenant as defined in the Housing Act 1985;
  - (c) To institute proceedings in the County Court for the possession of properties following service of a notice seeking possession or a notice to quit;
  - (d) To institute proceedings in the County Court for the recovery of rent, court costs and service charges; and
  - (e) To obtain and execute a warrant for eviction where possession has been awarded by the Court. In respect of secure and non-secure tenancies of Housing Revenue Account properties:
  - (f) to approve and sign Notices and Seeking Possession and Notices to Quit;
  - (g) to initiate proceedings in the County Court for possession and the recovery of rent, mesne profits, service charges and court costs, in accordance with relevant legislation; and
  - (h) to seek and execute warrants of execution for possession; and
  - (i) to undertake the actions set out in (a), (b) and (c) above, in respect of nonsecure tenancies and licences at the Council's Homeless Persons' Hostel (Norway House) including the eviction of any homeless person who defaults in the payment of accommodation charges for four successive weeks or more.
  - (j) Approve and sign Notices of Seeking Possession on the grounds of a breach of tenancy conditions for not allowing the Council access to undertake required repairs and maintenance;
  - (k) Initiate proceedings in the County Court for possession or to provide access for the purpose of undertaking the statutory annual Gas Safety Inspection in accordance with the relevant legislation; and
  - (l) Seek and execute warrants of execution for possession authorised by the court (Housing Committee (Minute 75 – 14.11.95)) (Housing Committee(Minute 46 – 12.9.2000)) (Housing Management Sub Committee(Minute 161-15.2.77)) (Portfolio Holder Decision (24.3.2004)) (EXP5)

#### Contracts and Technical Service Director/ Any Level 2 Officer

1. **Car Park Tariffs** – To determine individual tariffs in off-street pay and display car parks within agreed policy (Transportation Committee #(Minute 115- 26.1.93))(EXC1)
2. **Car Parks – Council** – To determine applications to use Council office car parks (Personnel Sub-Committee(Minute 76 – 17.11.81))(EXC2)
3. **Car Park Public** – not approve the use of Council car parks by charitable organisations or for other charitable purposes (Policy &Co-ordinating Committee(Minute 44(3) – 29.11.83))(EXC3)
4. **Fees and Charges – Leisure** - To approve the level of fees and charges within the parameters outlines within the Leisure Management Contract. To Introduce individual pricing chargers for Community Health and Wellbeing and Museum, Heritage and Culture generally in line with the current level of inflation, or in certain circumstances at a rate which reflects the true cost of providing the service (Leisure Services Committee(Minute 5 – 23.5.91))(EXF1)
5. **Land Drainage and Flood Protection** -To act under the statutory provisions in the Epping Forest District Council – Land Drainage Byelaws 2005. To act under the statutory

provisions listed below: Land Drainage Act 1991 Section 14 General drainage powers to maintain, construct and improve drainage works etc Section 15 Disposal of spoil from works to watercourse Section 23, Consenting to and enforcement of ordinary watercourses as delegated 24 and 25 by Essex County Council as amended by the Flood & Water Management Act 2010 Sections 26 Powers to require works for maintaining flow of watercourses etc and 27 Section 64 Powers of entry for internal drainage boards and local authorities Public Health Act 1936 Section 260 Power to deal with ponds, ditches etc Section 262 Power to require culverting of watercourses and ditches where building operations in prospect Section 263 Approval of plans to culvert or cover any stream or watercourse Section 264 Issue of notice requiring the repair or cleansing of culverts To approve updates to the list of legislation set out above (Council(Minute 23- 15.5.08)(Minute 42-29.7.13))(EXL1)

#### Health Protection Agency (HPA)/Any Consultant Staff Member

1. **Aircraft** Proper Officer for the purposes of the Public Health (Aircraft) Regulations 1970 (Environmental Health and Control Committee (Minute 10 – 10.5.78)) (EXA3)
2. **Food Hygiene – Entry to Premises** To act as registered medical practitioner to the Council under the Public Health (Control of Disease) Act 1984 and thereby authorised to enter any premises, vessel or aircraft for the purpose of regulations made under that section (Public Health Committees (Minute 72 – 21.9.83)) (EXF2)
3. **Illness – Persons in Need of Care and Attention** To act as proper officer to the Council for the purposes of Section 47 of the National Assistance Act 1948 (removal to suitable premises of persons in need of care and attention or those suffering from grave chronic illness) (Public Health Committee (Minute 72 – 21.9.83)) (EXI1)
4. **Infectious and Communicable Diseases** To act as proper officer to the Council for the purposes of the Public Health (Infectious Diseases) Regulations 1968, the Public Health (Control of Diseases) Act 1984 and Section 47 of the National Assistance Act 1948 (Public Health Committee (Minute 72 – 21.9.83) (Minute 92 – 17.3.92)) (EXI2)
5. **Notifiable Diseases** To act as proper officer for the purposes of the Public Health (Control of Disease) Act 1984 (Public Health Committee (Minute 72 – 21.9.83)) (EXN3)
6. **Ships** To act as proper officer to the Council for the purposes of the Public Health (Ships) Regulations 1970 (Public Health Committee (Minute 73 – 21.9.83)) (EXS6)

#### Level 3/Level 4 Officer

1. **Agenda and Minutes – Charges to Subscribers** To approve charges (Finance Sub-Committee(Minute 398 – 31.1.80))(EXA1)
2. **Complaints and Compliments Procedure** – To make payments up to £250 in respect of upheld complaints at Stages 1 & 2 (Executive Committee(Minutes 449 – 11.3.02))(EXC6)
3. **Conferences – Attendance by Officers** – To approve the attendance of officers at annual conferences, taking into account the subject matter of the conference and the budgetary provision made (Policy and Resources Committee(Minute 52 – 12.12.2000))(EXD1)
4. **Ex Gratia Payments** – To consider and approve the making of appropriate ex-gratia payments to staff at all levels for temporary undertaking significant additional duties and responsibilities subject, in the case of emergencies where payments are not covered by the approved salary budget, to a report being made to the cabinet (Personnel Sub-Committee(Minute 67 – 24.11.87))(EXE2)
5. **Offices – Use Off** – To determine applications to use Council Offices (Personnel Sub-Committee(Minute 79 – 17.11.81))(EXO1)
6. **Staff – Travelling Allowances** – To consider and adjudicate on any request to make an exception to policy for reimbursement of travelling expenses in pursuance of an officers

duties, being limited to second class rail fare (Personnel Sub-Committee(Minute 3 – 31.5.83))(EXS9)

7. **Subscriptions – Outside Organisations** – To pay subscriptions in respect of organisations on which the Council is represented at member level (Policy & Co-ordinating Committee(Minute 23- 5.10.93))(EXS12)
8. **Temporary Staff** – To engage temporary staff and/or part time staff and subject to the overall estimated salaries bill for the service concerned not being exceeded in any one year (Personnel Sub-Committee(Minute 37 – 14.2.74))(EXT2)

#### Service Director/ Level 2 Officer

1. **Landlord and Tenant – Management of Council Property** –
  - (a) To serve notices under Part II of the Landlord and Tenant Act 1954 as amended by Part I of the Law of Property Act 1969 in connection with negotiation of new rentals for Council properties.
  - (b) To take immediate corrective management action (except the institution of legal proceedings) for breaches of covenant in leases of shops, industrial estates and industrial land
  - (c) For all property transactions including acquisitions, disposals, new lettings, lease renewals, lease surrenders, rent reviews, sub-lettings / assignments, all licences (including change of use, alterations), deeds of variations, wayleaves and rights of way, and licences to cross council land. Officers delegated to approve the above transactions for the following amounts and by the Officer approval levels shown: Revenue transactions: Level 2 Manager/ Estates Management Specialist – up to £25,000 per year Service Director - £25,001 to £100,000 per year Capital Transactions: level two manager – up to £50,000 per transaction Service Director - £50,001 to £500,000 per transaction (d) To approve licences to assign and licences for change in use in consultation with the relevant Portfolio Holder (leadership Decision May 2016)(EXL2)
2. **Naming of Streets** – To approve the names of new streets in accordance with the Town and Police Clauses Act 1847 where following consultation, one name is agreed by all parties (Policy and Co-Ordinating Committee (Minute 44(3)-29.11.83))(EXN1)
3. **Ordnance Survey** – To act as proper officer for the purposes of Section 191 of the Local Government Act 1972 (marking out and checking of reputed boundaries) (Policy and Resources Committee(Minute 3 – 11.10.73))(EXO2)

**Part 3**  
**Scheme of Delegation**  
**Appendix 3**

**Scheme of Delegation to Council Officers**

**Key:**

**Officer Levels** - Level 4: Chief Executive, Level 3: Strategic Directors and Service Directors, Level 2: Service Managers

**Chief Executive**

- Access to Information: to deposit of background documents under the Access to Information Act 1985. Service Directors also have authority to execute this function. (CLA2)
- Appraisal of Top Management: to implement the Council's scheme for staff performance development reviews including Service Directors. Strategic Directors also have authority to execute this function. (CLA4)
- Attendance Allowance for Officers: to authorise attendance of such officers at any function or meeting and to grant payments on rates applicable for weekend working. Any Level 2 Manager or above Directors also have authority to execute this function. (CLA5)
- Chairman of Council – Casual Vacancy: to act as Proper Officer for the purposes of Section 88(2) of the Local Government Act 1972 (Convening of special Council meeting to fill casual vacancy in the office of Chairman of the Council). (CLC2)
- Council Meetings – Notices as to addresses for delivery of summons: to act as Proper Officer in accordance with Schedule 12 (paragraph 4(3) of the Local Government Act 1972 as to the receipt of these notices. (CLC9)
- Council Meetings – Signature of summons to attend: to act as Proper Officer in accordance with Schedule 12 (paragraph 4(2)(b) of the Local Government Act 1972 as to the signing of the summons. (CLC11)
- Councillors – Acceptance of Office: to act as Proper Officer under Section 83(1)-(4) of the Local Government Act 1972 in respect of the witness and receipt of declarations and acceptances of office by councillors; and That in the absence through unavailability, absence, incapacity, or vacancy to undertake the functions specified in the delegation. Any Level 4 Manager in the absence of the Chief Executive Managers also has authority to execute this function. (CLC12)
- Councillors – Resignation from office: to act as Proper Officer for the purposes of Section 84 of the Local Government Act 1972, in respect of the receipt of notices of resignation from office by councillors. (CLC13)
- Documents – Inspection and supply for councillors: to determine requests by members of the Council to inspect or to be provided with copies of Council documents. Any Level 3 Officer or above also have authority to execute this function. (CLD8)
- Electoral matters: (a) Registration Officer under section 8(2)(a) of the Representation of the People Act (RPA) 1983 and
  - (i) through Section 28 of the RPA, Acting Returning Officer for the purposes of UK Parliamentary elections; and
  - (ii) through Section 6 of the European Elections Act 2002, Local Returning Officer for European Parliamentary elections.(Duties: responsibility for the electoral register, for EU parliamentary elections (under the direction of the Regional Returning Officer) and for UK Parliamentary elections.)

(b) Counting Officer for the purposes of Section 61E of the Town & Country Planning Act 1990 and the Localism Act 2011 (Section 116)

(Duties: responsibility for the local referendums on Neighbourhood Plans)

(c) District Returning Officer for the Epping Forest District under Section 35(1) of the RPA 1983

(Duties: responsibility for the conduct of District Council/Parish Council elections and, through Sections 52ZQ and 113 of Local Government Finance Act 1992, Proper Officer for local referendums in connection with Council Tax precepts.)

(d) Proper Officer under Sections 34, 35 and 105(2) of the Local Government Act 2000 (Duties: responsibility for petitions and referendums in connection with the Executive Constitution of the Council).

(e) Nominated Deputy County Returning Officer under Section 35(1) of the RPA 1983 (Duties: responsibility for County Council elections as appointed by and under the direction of the County Returning Officer.)

(f) Nominated Local Returning Officer under Section 54 of the Police & Social Responsibility Act 2011

(Duties: conduct of elections for Police & Crime Commissioners under the direction of County Returning Officer.)

Deputy Registration Officer: (Senior Electoral Services Officer) also have authority to execute these functions. (CLE1)

- Head of Paid Service: in accordance with Section 4 of the Local Government and Housing Act 1989 designated as Head of the Authority's Paid Service. In the absence of the Chief Executive, a nominated Level 4 or Level 3 Officer also have authority to execute this function. (CLH2)
- Health and Safety at Work – Implementation: (a) To be responsible on behalf of the Council for the general policy for the safety, health and welfare of employees as set out in the Council's statement of policy;

(b) To be directly responsible for the implementation in each Directorate of the Council's general policy for safety, health and welfare;

(c) To ensure that adequate budgetary provision is made to meet the cost of any safety programme; and

(d) To be responsible in the work area under their control for:

(i) implementation of general policy of health, safety and welfare;

(ii) annual review of work areas to assess training needs and priorities for improvements;

(iii) identification of hazards for employees and the public;

(iv) consultation with employee representatives on safety matters; and

(v) setting an example in safe behaviour.

Service Directors, all level 1, 2 and 3 Managers responsible for one or more staff also have authority to execute this function. (CLH3)

- Maladministration – Power to make payments or provide other remedies: the power to make payments or provide other remedies in cases of maladministration, or in cases by individuals which amount to or could amount to maladministration by the Council. Service Director or a Level 2 Officer nominated by them also have authority to execute this function. (CLM2)
- Ombudsman – Notices: to act as proper officer for the purposes of Section 30(5) of the Local Government Act 1974 (publication of notice on receipt of a report from the Local Ombudsman). The Monitoring Officer also has authority to execute this function. (CLO2)
- Re-use of Public Sector Information Regulations 2005: to be responsible in accordance with the Council's policy for administering requests for information under the Re-use of Public Sector Information Regulations 2005, including the level of fees and charges to be made if information supplied is to be re-used. To be responsible for administering requests under the 2005 Regulations in respect of use of CCTV data, taking account of the Council's policy and charging arrangements. (CLR5)

- Staff – Appointments Procedure: to make all appointments to each service in respect of posts graded below level 3 except appointments where, in the opinion of the Head of the Paid Service, member involvement is considered desirable. Strategic and Service Directors also have authority to execute this function. (CLS1)

### **Strategic Director**

- Chief Financial Officer: designated as Chief Finance Officer, being the officer having responsibility under Section 151 of the Local Government Act 1972, Section 73 of the Local Government Act 1985, and Section 114 of the Local Government Finance Act 1988. (CLC4)

### **Service Director**

- Proper Officer: to act as Proper Officer under the Access to Information Act 1985. Customer Services Service Director, or any Level 3 Officer or above also have authority to execute this function. (CLA1)
- Appraisal of Staff: to implement the Council's scheme for staff performance development reviews excluding Service Directors. Level 2 and 1 Managers also have authority to execute this function. (CLA4)
- Councillors – Substitutes: to receive notices from Group Leaders regarding the appointment of substitute members, subject to certain conditions. Customer Services Service Director, or any Level 2 Officer nominated by them also have authority to execute this function. (CLC14)
- Development Management:

#### A. to determine:

- (a) All Full Planning Applications
  - (b) All Householder Planning Applications
  - (c) All Outline Applications and Reserved Matters Applications
  - (d) All applications for Advertisement Consent,
  - (e) All Applications for Listed Building Consent
  - (f) All applications for Demolition in Conservation Areas
  - (g) All Applications for Hazardous Substance Consent
  - (h) Tree Preservation Order Consent applications where felling is proposed.
  - (i) All Applications for Variation or Removal of Conditions
- except the following which shall be determined by the committee or subcommittee indicated in Article 10 to the constitution:
1. Applications for residential developments consisting of 10 or more dwellings (unless approval of reserved matters only) which are recommended for approval;
  2. Applications made by the Council on land and / or property in its ownership which are for disposal, in accordance with the size of application set out in Article 10 of the Constitution.
  3. Applications recommended for approval where at least one of the following have been received:
    - a. At least 5 expressions of objections material to the planning merits of the proposal are received (or where less than five have been consulted, the majority of those have objected); or
    - b. An objection is received from a local council, supported by at least one non-councillor resident, with material planning reasons; or
    - c. An objection from a Local Council, material to the planning merits of the proposal is received and confirming in writing their intention to attend and speak at the meeting where the proposal will be considered. Should the relevant Local Council fail to register to speak, or attend following registration, the application be referred (without any consideration of the merits of the development proposal) to the Service Director (Planning Services) for determination in accordance with Rule P2 (2) (Planning Applications) set out in Part 4 of the Constitution

- d. Applications which a member (whose ward is within the Plans Sub-Committee Area) has requested be referred to committee for consideration subject to the request being made in writing within 4 weeks of that application's notification in the weekly list.
4. Any application by an elected member or Senior Officer (Head of Service and above) of the Council or a relevant person (see code of conduct for definition) recommended for approval;
5. Any other application which the Head of Planning considers appropriate to be determined by members.

B. To determine;

All matters, set out below, unless the Service Director, Planning considers it appropriate to be determined by members.

1. Planning Related Applications

- (a) Tree Preservation Order consent applications other than where felling is proposed
- (b) All notification applications
- (c) All prior approval applications including telecommunications equipment.
- (d) All certificates of lawful use and development.
- (e) All applications for non-material amendments to applications.
- (f) All applications for approval of details reserved by condition.
- (g) All applications for Permission in Principle for Minor Housing Led Development and for Technical Details Consent

2. Planning and Related Procedures

- (a) Finalising the conditions or reasons for refusal, which appear on decision notices.
- (b) The preparation of legal agreements, in consultation with the Service Manager (Legal Services)/Solicitor to the Council within the terms of any relevant Committee resolution.
- (c) Determining the need for information required to make a decision on a planning application including the need for, and scoping of, an Environmental Assessment.
- (d) Deciding the charge to be made for the provision of information where the normal scale of charges is inappropriate (e.g. information requiring research and/or to be used for commercial purposes.)
- (e) Deciding what should be within the Councils Local Validation Checklist.

3. Enforcement

- (a) To determine whether any enforcement should be taken and what such action should entail.
- (b) Issuing Stop Notices, Temporary Stop Notices, Enforcement Notices, Breach of Conditions Notices, Building Preservation Notices, Listed Buildings Enforcement Notices, Planning Contravention Notices, Conservation Area Notices, Discontinuance Notices in respect of advertisements and Notices under Section 215-219 of the Town and Country Planning Act 1990 (as amended), for all breaches of planning legislation, in accordance with the Council's adopted enforcement policy.
- (c) Prosecution of the unauthorised display of advertisements, unauthorised works to a listed building or in a conservation area, or breach of Tree Preservation or Hedgerow Regulations and non-compliance where enforcement action has previously been authorised.
- (d) Take appropriate enforcement action, including serving an injunction where the Service Director Planning or their nominee, having regard to the evidence, considers the circumstances to require urgent action.
- (e) Investigation and prosecution of breaches of temporary market requirements
- (f) Variation of the requirements for compliance with any enforcement related notices already authorised, including altering the period required for compliance, service of further notices and withdrawal of notices.

(g) To authorise direct action (or re-charge the cost of that action) in pursuit of a valid enforcement notice subject to budget provision being available and to local District Councillors being notified

(h) To report to an Area Plans Sub-committee on specific enforcement cases were requested by members.

#### 4. Entry onto Land

(a) To Authorise officers and agents engaged by the Council to use the relevant powers of entry as necessary and make application to the magistrate's court for a warrant authorising entry where applicable in relation to any matter.

Planning Services or a Level 2 or 1 Officer nominated by them also have authority to execute these functions. (CLD2)

- Documents – Deposit: to act as Proper Officer for the purposes of Section 225(1) of the Local Government Act 1972 in relation to the deposit of documents. Customer Services, or duly nominated Officer also have authority to execute this function. (CLD7)
- Gambling Act 2005 – Licensing Functions: see Annex A. Any Level 3 Officer or above within their management control also have authority to execute this function. (CLG1)
- Growth and Infrastructure Act 2013: To determine applications received under Section 7 to modify, remove or discharge affordable housing obligations, subject to:  
(a) Prior consultation with the Chief Executive and the Monitoring Officer; the Chairman (or in his/her absence, the Vice-Chairman) of the relevant Area Plans Sub-Committee and local ward members; and

(b) Details of the application and the resultant Determination being reported in the following issue of the Council Bulletin.

Any Level 3 Officer or above within their management control also have authority to execute this function. (CLG2)

- Insurance – Institution of legal proceedings: to institute, defend, appeal, withdraw or agree a compromise in connection with any legal proceedings concerning the Council's insurance matters, subject to reporting on any significant issues to the next appropriate Cabinet meeting. Business Support Services or any appropriately qualified staff members within Accountancy Services nominated by them also have authority to execute this function. (CLI2)
- Land Charges: to act as proper officer to the Council for the purposes of Section 212(1) and (2) of the Local Government Act 1972 (local registrar of land charges). Any Level 3 Officer or above within their management control also have authority to execute this function. (CLL1)
- Licensing: to authorise suitably qualified officers to exercise those functions relating to licensing set out in the attached list of environmental health legislation as set out in Annex B, subject to the policies from time to time agreed by the Licensing Committee. To delegate appropriate powers relating to the management and provision of service set out in the attached list of environmental health legislation as set out in Annex B. Any Level 3 Officer or above within their management control also have authority to execute this function. (CLL2)
- Licensing – Hackney Carriage and Private Vehicle Licences: To determine Licences in respect of hackney carriage and private hire licensing (as set out in Annex C) except in those circumstances where under the Council's policy they stand referred to the Licensing Sub Committee ([see Minute 12 opposite](#)). Any Level 3 Officer or above within their management control, Senior Licensing Officer or suitably qualified Officer authorised by them also have authority to execute this function. (CLL3)
- Licensing – Scrap Metal Dealers Act 2013: to implement Annex D (Schedule of delegations under the Act) insofar as they relate to matters to be undertaken by officers. To authorise officers to carry out inspections of the sites and vehicles used

and conduct investigations and to issue and undertake prosecutions that may arise under the Act. Any Level 3 Officer or above within their management control also have authority to execute this function. (CLL4)

- Local Government and Housing Act 1989 – Determinations under Part IV: to make determinations under the following sections of the Local Government and Housing Act 1989: Section 42(2)(g) – Reimbursable expenditure and Sections 50(3)(b) and 60(2) – Usable capital receipts. Business Support Services or Chief Financial officer also have authority to execute this function. (CLL5)
- Politically Restricted Posts: (a) to notify all politically restricted post holders of their designations; (b) to incorporate the designation as to politically restricted status in contracts of employment; and (c) to maintain and issue revised lists when necessary and notify the independent Adjudicator. (CLP2)
- Protected Buildings: To act as Proper Officer for the purposes of paragraph 28 of Schedule 16 to the Local Government Act 1972 (receipt and deposit of lists of protected buildings). (CLP3)
- Trees, Conservation and Related Functions: to be responsible for delegations set out in Annex E to this schedule. Any Level 3 Officer or above within their management control also has authority to execute this function. (CLT3)

#### **Head of Paid Service:**

- Staff – Miscellaneous Delegations: to determine staff issues in terms of grading, structure, and local conditions of service (subject to consultation with staff representatives). within the budget and policy framework. Strategic and Service Directors within their areas of management responsibility also have authority to execute this function. (CLS2)
- Staff – Retirement: to offer early retirement and redundancy under the terms of the superannuation scheme or gratuity scheme to appropriate staff where the resultant vacated posts can be made available for redeployment of otherwise redundant employees. (CLS3)

#### **Chief Financial Officer**

- Borrowing Determination: to discharge all powers regarding sources of borrowing available to the Council under Section 43(2) of the Local Government and Housing Act 1989 subject to regular monitoring reports to the Cabinet, and to compile and maintain a register of loan instruments. Any appropriately qualified staff members within Accountancy Services nominated by the Chief Financial Officer also have authority to execute this function. (CLB1)
- Cheques – Signing: to sign cheques on behalf of the Council. Any appropriately qualified staff members within Accountancy Services nominated by the Chief Financial Officer (or other duly authorised signatory) also have authority to execute this function. (CLC3)
- Collection Fund: to calculate the surplus or deficit on the Collection Fund in accordance with the Local Authorities (Funds) (England) Regulations 1992. Any appropriately qualified staff members within Accountancy Services nominated by the Chief Financial Officer also have authority to execute this function. (CLC5)
- Direct Debiting: to execute a direct debiting indemnity on behalf of the Council. (CLD3)
- Local Government and Housing Act 1989 – Proper Officer Designations: Proper Officer designations made for the purposes of the Sections of the Local Government and Housing Act 1989 indicated: Section 2 (preparation and maintenance of lists of politically restricted posts) and Section 37 (deposit and

preparation of statements as to the provision of financial assistance). The People Team Manager also has authority to execute this function. (CLL6)

- Officers – Receipts of money due: to act as Proper Officer for the purposes of Section 115 of the Local Government Act 1972). (CLO1)
- Treasury Management: (a) to have control of the aggregated monies under Section 151 of the LGA 1972; (b) to be responsible for all executive decisions on borrowing, investment, or financing under Section 151 subject to a requirement to act in accordance with the CIPFA Code for Local Authorities. Appropriately qualified staff members within Accountancy Services nominated by the Chief Financial Officer also have authority to execute this function. (CLT2)

### **Legal Services Manager**

- Affidavits – Swearing Of: to secure sworn affidavits from any member of Council staff where required by the Council. Any nominated legally qualified staff member within Legal Services also have authority to execute this function. (CLA3)
- Byelaws - Certification: to act as Proper Officer for the purposes of Section 238 of the Local Government Act 1972. Any Solicitor or fellow of the Chartered Institute of Legal Executives within Legal Services nominated by them also have authority to execute this function. (CLB2)
- Byelaws – Parish & County Council Copies: to act as Proper Officer for the purposes of Section 236(a) of the Local Government Act 1972. (CLB3)
- Court, tribunal, inquiry proceedings – Engagement of staff and advice: To appoint appropriate staff and/or external Solicitors and/or Counsel to appear for, conduct and settle proceedings on behalf of the Council in Courts, tribunals, inquiries, and other similar venues. (CLC15)
- Data Protection Act 2018: to act as Data Protection Officer for the purposes of the Data Protection Act 2018 and General Data Protection Regulation. (CLD1)
- Documents – Authentication: to act as Proper Officer for the purposes of Section 234(1) – (2) of the Local Government Act 1972 for the purposes of authentication of documents. (CLD5)
- Documents – Certification of photographic copies: to act as Proper Officer for the purposes of Section 229(5) of the Local Government Act 1972 for the purposes of certifying photographic copies of documents. (CLD6)
- High Court Action: to instigate High Court action in the following circumstances:
  - (a) appeals lodged in accordance with Sections 288 and 289 of the Town and Country Planning Act 1990 (as amended)
  - (b) applications for High Court injunctions to secure planning enforcement under the Town and Country Planning Act 1990 (as amended) which shall be authorised by the District Development Control Committee or an Area Plans Sub-Committee, or to deal with breaches of Abatement Notices under the Environment Act 1995 or Amendments thereof which shall be authorised by the Cabinet;
  - (c) any applications for High Court injunctions where immediate emergency action is required to prevent serious distress to public safety or residential amenity which shall be authorised by the Legal Services Manager/Assistant Director Legal Services in consultation with the appropriate Portfolio Holder.
  - (d) any other category of High Court action which shall not admit of delay resulting from reference to the full Council – which shall be authorised by the Cabinet or any appropriate committee or subcommittee; and
  - (e) to make applications in consultation with the appropriate members under High Court injunctions where immediate emergency action is required to prevent serious distress to public safety or residential amenity.Any legally qualified officer within the Legal Services Function also have authority to execute this function. (CLH4)

- High Court Action: to defend High Court Proceedings instituted against the Council (subject to reporting on action taken to the next Cabinet meeting). (CLH4)
- Insolvency – Enforcement of debts: to issue statutory demands pursuant to Section 268(1)(a) of the Insolvency Act 1986. To take steps to enforce a debt following the commencement of bankruptcy proceedings, The relevant **Level 4 or 3 Manager** also have authority to execute this function. (CL11)
- Magistrates' and County Courts – Defence and Pursuit of Proceedings: to institute, defend, pursue, and settle proceedings on behalf of the Council and to appear on the Council's behalf, in any proceedings before the Magistrates' and County Courts. In their absence, any appropriately qualified officer nominated by them also have authority to execute this function. (CLM1)
- Monitoring Officer and Deputy: to act as Monitoring Officer in accordance with Section 5 of the Local Government and Housing Act 1989 and Sections 26-37 of the Localism Act 2011 for the purpose of performing the duties imposed by those sections. To be responsible for any Parish or Town Councils which are affiliated for the time being to the Epping Forest Standards Committee under Chapter 7 of the Localism Act. (CLM3)

### **Monitoring Officer**

- Conduct of Councillors: in accordance with Sections 26-37 of the Localism Act 2011: (A-J). In the absence of the Monitoring Officer, the Deputy Monitoring Officer also has authority to execute this function. (CLC8)
- Constitution – Minor amendments: to make amendments to the Constitution as set out in the Article relating to Revision, Amendment and Suspension of the Constitution. (CLC10)
- Ombudsman – Notices: to act as Proper Officer for the purposes of Section 30(5) of the Local Government Act 1974 (publication of notice on receipt of a report from the Local Ombudsman). The Chief Executive also has authority to execute this function. (CLO2)
- Registration of Interests – District Council: receipt, custody, and public deposit of registration of interests of District Councillors under the Local Government Acts 2000 and 2007 and regulations made thereunder. (CLR1)
- Registration of Interests – Town and Parish Councils: receipt, custody, and public deposit of registration of interests of Parish and Town Councillors in accordance with the Local Government Acts 2000 and 2007 and regulations made thereunder. (CLR2)
- Resolutions – Certification: to act as Proper Officer for purposes of paragraph 25 of Schedule 4 to the Local Government Act 1972 (certification of resolutions). (CLR4)

### **Managing Legal Executive Litigation Executive:**

- Magistrates' and County Courts – Defence and Pursuit of Proceedings: to appear for the Council in legal proceedings pursuant to Section 223(1) of the Local Government Act 1972 and Section 60(2) of the County Courts Act 1982. (CLM1)

### **Democratic and Electoral Services Team Manager:**

- Monitoring Officer and Deputy: to act as Deputy Monitoring Officer(s) with the power to act in the absence or during any illness of the Monitoring Officer in accordance with Section 5 of the Local Government and Housing Act 1989. (CLM3)

#### **Level 4 or 3 Officer (any) that is not the initiating officer for the subject matter**

- Common Seal – Attestation Of: to attest the Common Seal of the Council. (CLC6)

#### **Level 4 or 3 Officer (any)**

- Compassionate Leave: to grant to staff up to five days leave (with pay) per year for compassionate reasons. (CLC7)

#### **Level 3 Officer and above or any level 2 Officer so authorised**

- Disturbance Compensation: to grant disturbance allowances following home loss in appropriate cases and subject to the budgetary provision of the Council, in any one year, not being exceeded and in accordance with the Land Compensation Acts. (CLD4)

#### **Returning Officer**

- Elections – Discretionary fees and charges: to determine annually the scale of discretionary fees and charges, for which there is no statutory amount, by allowing for inflation and rounding up to the nearest whole number. (CLE2)
- Elections – Fees and expenses: to determine the scale of fees and expenses payable by the Returning Officer at elections of District and Parish Councils, adjusting the schedule for inflation and rounding up to the nearest whole number. (CLE3)
- Parish Polls: to act as Returning Officer for the purposes of a Parish Poll in the District in accordance with the Parish and Community Meetings (Polls) Rules 1987. (CLP1)

#### **Chief Executive/ Electoral Registration Officer?**

- Electoral registration – Prosecutions: to institute and pursue proceedings in relation to electoral registration offences. (CLE4)

#### **Regulation of Investigatory Powers Act (RIPA) 2000**

(RIPA) 2000 – as amended by the Protection of Freedoms Act 2012 – designation of Senior Responsible Officer, Authorising Officers, and RIPA Coordinator

For the purposes of RIPA and regulations or orders made thereunder, the following officers of the Council be appointed to the roles specified, to exercise on behalf of the Council, the power to administer and give initial authorisation of covert surveillance:

- Chief Executive/ Senior Responsible Officer (SRO): To ensure compliance with the Act and associated Codes of Practice. To liaise with Commissioners and Inspectors and implement any post-inspection actions. (CLR3)
- Strategic Director (Level 4 Officer)/ Authorising Officer: To consider and give initial authorisation of covert surveillance, whether directed or covert human intelligence source, if confidential material is likely to be captured. (CLR3)
- TBD: To consider and give initial authorisation of covert surveillance, whether directed or covert human intelligence source, (CLR3)
- Senior Legal Executive: To consider and give initial authorisation of covert surveillance, whether directed or covert human intelligence source, (CLR3)
- Executive Assistant (Strategic Support)/ RIPA Coordinator: To maintain a central record of refusals, authorisations and cancellations as directed by the SRO. (CLR3)

**Annex A**

**Gambling Act 2005**

## Table of Delegations of Licensing Functions

### Service Director Responsible for Licensing Service

#### **Matters to be dealt with by Full Committee:**

- Three-year licensing policy
- Policy not to permit casinos

#### **Matters to be dealt with by Sub Committee:**

- Application for premises licences: where representations have been received and not withdrawn
- Application for a variation to a licence: where representations have been received and not withdrawn
- Application for a transfer of a licence: where representations have been received from the Commission
- Application for a provisional statement: where representations have been received and not withdrawn
- Review of a premises licence
- Application for club gaming/club machine permits: where representations have been received and not withdrawn
- Cancellation of club gaming/club machine permits
- Decision to give a counter notice to a temporary use notice

#### **Matters to be dealt with by Officers:**

- Fee Setting – when appropriate: (to be approved by Executive Councillor)
- Application for premises licences: where no representations received/representations have been withdrawn
- Application for a variation to a licence: where no representations received/representations have been withdrawn
- Application for a transfer of a licence: where no representations received from the Commission
- Application for a provisional statement: where no representations received/representations have been withdrawn
- Application for club gaming/club machine permits: where no representations received/representations have been withdrawn
- Applications for other permits
- Cancellation of licensed premises gaming machine permits
- Consideration of temporary use notice

**Annex B**

### **Licensing**

#### Service Director Responsible for Licensing Service

## **Charities Act 1992**

- Part III (Street Collections)

## **Local Government (Miscellaneous Provisions) Act 1976**

- S16 (Power to obtain particulars of Persons interested in Land)

## **Local Government (Miscellaneous Provisions) Act 1982**

- Sections 14, 15, 16 and 17 (Acupuncture, Tattooing, Ear Piercing and Electrolysis)
- Section 37 (Temporary Markets)
- Schedule 3 Paragraphs 7, 8, 9, 10, 13, 15 to 19 and 25 (Control of Sex Establishments)
- Schedule 4 paragraphs 7, 9 and 10 (Street Trading)

## **Hackney Carriage and Private Hire Licences**

- Town and Police Clauses Act 1847: (Sections 37, 41, 42, 43, 45, 46, 47, 50, 68)
- (Except temporary road closures which are the subject of objections which shall be dealt with by the Licensing Sub-Committee)

## **Town and Police Clauses Act 1889 (Sections 4, 5 and 6)**

## **Local Government (Miscellaneous Provisions) Act 1976 (Part II)**

## Licensing Act 2003

### List of functions and delegated authority to Service Director responsible for Licensing Service

#### **Matters to be dealt with by Full Committee:**

- All policy matters except the formulation of the statement of licensing policy: all cases

#### **Matters to be dealt with by Sub Committee:**

- Application for personal licence: if a police objection
- Application for personal licence with unspent convictions: all cases
- Application for premises licence/club premises certificate: if a relevant representation made
- Application for provisional statement: if a relevant representation made
- Application to vary premises licence/club premises certificate: if a relevant representation made
- Application to vary designated premises supervisor: if a police objection
- Application for transfer of premises licence: if a police objection
- Applications for interim Authorities: if a police objection
- Application to review premises licence/club premises certificate: all cases
- Decision to object when local authority is a consultee and not the relevant authority considering the application: all cases
- Determination of an objection to a temporary event notice: all cases
- Determination of application to vary licence at community premises to include alternative licence conditions: if a police objection

#### **Matters to be dealt with by Officers:**

- Application for personal licence: if no objection made
- Application for premises licence/club premises certificate: if no relevant representation made
- Application for provisional statement: if no relevant representation made
- Application to vary premises licence/club premises certificate: if no relevant representation made
- Application to vary designated premises supervisor: all other cases
- Request to be removed as designated premises supervisor: all cases
- Application for transfer of premises licence: all other cases
- Applications for interim Authorities: all other cases
- Decision on whether a complaint is irrelevant frivolous vexatious etc.: all cases
- Decision to object when local authority is acting as a Responsible Authority: all cases
- Determination of application to vary licence at community premises to include alternative licence conditions: all other cases
- Decision whether to consult other responsible authorities on minor variation: all cases
- Determination of minor variation: all cases

## Scrap Metal Dealers Act 2013

### Delegation of powers to Ervice Director responsible for Licensing Service

#### **Matters to be dealt with by Full Council:**

- Licensing policy: All cases
- Fee Setting - when appropriate: **All fees?**

#### **Matters to be dealt with by Sub Committee:**

- Application for or renewal of a Site or Collector's licences: where representations have been received and not withdrawn
- Application for a variation to a licence: where representations have been received and not withdrawn
- To issue a closure notice on non-residential premises being used as a scrap metal dealer's site: all cases
- Application to the Magistrates Court for a closure order: all cases
- Termination of a closure order: all cases
- Application to the Magistrates Court to discharge a closure order: all cases
- Revocation of a licence: all cases
- Consideration of and imposition of conditions: all cases

#### **Matters to be dealt with by Officers:**

- Application for or renewal of a Site or Collector's licences: where representations have been received and not withdrawn
- Application for a variation to a licence: where representations have been received and not withdrawn
- To issue a closure notice on non-residential premises being used as a scrap metal dealer's site: all cases
- Application to the Magistrates Court for a closure order: all cases
- Termination of a closure order: all cases
- Application to the Magistrates Court to discharge a closure order: all cases
- Revocation of a licence: all cases
- Consideration of and imposition of conditions: all cases

## Trees, Conservation and Related Functions

### **Buildings** - Planning (Listed Buildings and Conservation Areas) Act 1990 Section: 3 (1-8):

- To serve Building Preservation Notices in urgent cases, subject to report to and review by the next meeting of District Development Control Committee.
- To obtain and exercise powers of entry to undertake surveys in connection with:
  - 1 Statutory Plans
  - 2 Applications for Planning Permission
- Exceptions: yes

### **Dangerous trees on private land** - Local Government (Miscellaneous Provisions) Act 1976 Sections: 23 and 24:

- Discretionary power to take action to make safe trees on private land, including to:
  - (1) Obtain and use necessary Powers of Entry to the land;
  - (2) Serve relevant notices;
  - (3) Respond to appeals;
  - (4) Undertake works directly where necessary; and
  - (5) Recover expenses.
- Exceptions: no

### **Countryside hedgerows** - The responsibility to:

- (1) Regulate the removal of certain hedgerows;
- (2) Issue relevant notices, including to require hedgerow replacement;
- (3) Respond to appeals;
- (4) Take necessary enforcement or legal action;
- (5) Obtain and use necessary powers of entry to the land including exercise of rights of entry under warrant;
- (6) Surveying land in connection with any hedgerow removal notice;
- (7) Ascertaining whether any offences have been committed under Regulation 7; and
- (8) Determination of whether a notice should be served under Regulation 8.
- Exceptions: no

### **High Hedges** - Anti-social Behaviour Act 2003 (Part 8) Sections: 68, 69, 70, 74, 75, 77, 79 and 80:

The responsibility to:

- (1) Deal with complaints in relation to the height of domestic hedgerows;
- (2) Issue, withdraw or relax the requirements or relevant notices;
- (3) Serve relevant documents regarding notifications;
- (4) Notify interested parties;
- (5) Respond to appeals;
- (6) Take relevant legal or enforcement action, including undertaking works directly and recovering expenses; and
- (7) Obtain and use powers of entry necessary in relation to (1), (2), (3), (5) and (6).
- Exceptions: no

### **Protection of trees** - Town and County Planning Act 1990 (as amended) Part VIII

Sections: 197, 198, 199, 201, 203, 205, 206, 207, 208, 209, 210, 211, 214, 214A, B, C&D, 324, 325:

The duty and responsibility to:

- (1) Take all necessary measures to make Tree Preservation Orders where trees are at risk, and are of significant existing or potential amenity value, or where they are of wider or strategic importance, subject to publication of the details in the Council Bulletin;
- (2) Amend, confirm, decide not to confirm or revoke such orders (i.e. TPOs);
- (3) Determine applications for works to preserved trees except as set out below:
  - (i) applications recommended for approval where more than two expressions of objection material to the planning merits of the proposal have been received;
  - (ii) applications recommended for approval contrary to an objection from a local council which are material to the planning merits of the proposal;

- (iii) applications which a Councillor representing a ward within the relevant Area Plans Sub-Committee area requests in writing within four weeks of notification in the Council Bulletin should be referred to the appropriate Sub-Committee provided that the member has notified the Ward Councillor in advance; and
- (iv) any application which the Service Director, Planning considers is expedient or appropriate to present to committee for decision (e.g. those raising issues of subsidence, claims for compensation etc).
- (4) Take any necessary action in respect of claims for compensation;
- (5) Take action to ensure replacement planting where appropriate, by serving relevant notices, or by undertaking such planting directly and reclaiming the costs, and to publish any decision not to require replacement planting in the Council Bulletin;
- (6) Respond to appeals;
- (7) Take legal action in aspect of breaches of Part VIII of the Act where expedient, in conjunction with legal services, including injunctive action and recovery of costs;
- (8) Take appropriate action in respect of notification of works to trees in Conservation Areas, including the issue of the Tree Preservation Orders as necessary; and
- (9) Authorise all expedient measures to gain entry to land in respect of the execution of any of the above, including to:
  - (i) issue a warrant if admission has been refused or if a refusal is reasonably anticipated or if the case is urgent;
  - (ii) to take samples of trees or soil; and
  - (iii) for the authorised person(s) to take with them such other persons as may be necessary.

**Note:** The authorities to undertake the stated functions, as set under the relevant sections shall be taken to be automatically updated to take into account changes, modifications and updating as they occur in the relevant legislation, subject to no new authorities being created. All references are to the legislation as currently amended.

## Development Management (CLD2)

### A. To determine -

- (a) All Full Planning Applications
- (b) All Householder Planning Applications
- (c) All Outline Applications and Reserved Matters Applications
- (d) All applications for Advertisement Consent,
- (e) All Applications for Listed Building Consent
- (f) All applications for Demolition in Conservation Areas
- (g) All Applications for Hazardous Substance Consent
- (h) Tree Preservation Order Consent applications where felling is proposed.
- (i) All Applications for Variation or Removal of Conditions except the following which shall be determined by the committee or subcommittee indicated in Article 10 to the constitution:
  1. Applications for residential developments consisting of 10 or more dwellings (unless approval of reserved matters only) which are recommended for approval;
  2. Applications made by the Council on land and / or property in its ownership which are for disposal, in accordance with the size of application set out in Article 10 of the Constitution.
  3. Applications recommended for approval where at least one of the following have been received:
    - (a) At least 5 expressions of objections material to the planning merits of the proposal are received (or where less than five have been consulted, the majority of those have objected); or
    - (b) An objection is received from a local council, supported by at least one non-councillor resident, with material planning reasons; or
    - (c) An objection from a Local Council, material to the planning merits of the proposal is received and confirming in writing their intention to attend and speak at the meeting where the proposal will be considered. Should the relevant Local Council fail to register to speak, or attend following registration, the application be referred (without any consideration of the merits of the development proposal) to the Service Director (Planning Services) for determination in accordance with Rule P2 (2) (Planning Applications) set out in Part 4 of the Constitution
    - (d) Applications which a member (whose ward is within the Plans Sub-Committee Area) has requested be referred to committee for consideration subject to the request being made in writing within 4 weeks of that application's notification in the weekly list.
  4. Any application by an elected member or Senior Officer (Head of Service and above) of the Council or a relevant person (see code of conduct for definition) recommended for approval;
  5. Any other application which the Head of Planning considers appropriate to be determined by members.

### B. To determine -

- All matters, set out below, unless the Service Director, Planning considers it appropriate to be determined by members.

#### 1. Planning Related Applications

- (a) Tree Preservation Order consent applications other than where felling is proposed
- (b) All notification applications
- (c) All prior approval applications including telecommunications equipment.
- (d) All certificates of lawful use and development.
- (e) All applications for non-material amendments to applications.
- (f) All applications for approval of details reserved by condition.

- (g) All applications for Permission in Principle for Minor Housing Led Development and for Technical Details Consent

## **2. Planning and Related Procedures**

- (a) Finalising the conditions or reasons for refusal, which appear on decision notices.
- (b) The preparation of legal agreements, in consultation with the Service Manager (Legal Services)/Solicitor to the Council within the terms of any relevant Committee resolution.
- (c) Determining the need for information required to make a decision on a planning application including the need for, and scoping of, an Environmental Assessment.
- (d) Deciding the charge to be made for the provision of information where the normal scale of charges is inappropriate (e.g. information requiring research and/or to be used for commercial purposes.)
- (e) Deciding what should be within the Councils Local Validation Checklist.

## **3. Enforcement**

- (a) To determine whether any enforcement should be taken and what such action should entail.
- (b) Issuing Stop Notices, Temporary Stop Notices, Enforcement Notices, Breach of Conditions Notices, Building Preservation Notices, Listed Buildings Enforcement Notices, Planning Contravention Notices, Conservation Area Notices, Discontinuance Notices in respect of advertisements and Notices under Section 215-219 of the Town and Country Planning Act 1990 (as amended), for all breaches of planning legislation, in accordance with the Council's adopted enforcement policy.
- (c) Prosecution of the unauthorised display of advertisements, unauthorised works to a listed building or in a conservation area, or breach of Tree Preservation or Hedgerow Regulations and non-compliance where enforcement action has previously been authorised.
- (d) Take appropriate enforcement action, including serving an injunction where the Service Director Planning or their nominee, having regard to the evidence, considers the circumstances to require urgent action.
- (e) Investigation and prosecution of breaches of temporary market requirements
- (f) Variation of the requirements for compliance with any enforcement related notices already authorised, including altering the period required for compliance, service of further notices and withdrawal of notices.
- (g) To authorise direct action (or re-charge the cost of that action) in pursuit of a valid enforcement notice subject to budget provision being available and to local District Councillors being notified
- (h) To report to an Area Plans Sub-committee on specific enforcement cases were requested by members.

## **4. Entry onto Land**

- (a) To Authorise officers and agents engaged by the Council to use the relevant powers of entry as necessary and make application to the magistrate's court for a warrant authorising entry where applicable in relation to any matter.

**Note:** Planning Services or a Level 2 or 1 Officer nominated by them also have authority to execute these functions. (CLD2)



**Part 3  
Scheme of Delegation  
Appendix 1**

**Responsibility for Council Functions**

**Matters to be dealt with by Cabinet**

- Service Director (Commercial & Regulatory Services): Any function relating to contaminated land.
- Service Director (Commercial & Regulatory Services): The discharge of any function relating to the control of pollution or the management of air quality.
- Service Director (Commercial & Regulatory Services): The service of an Abatement Notice in respect of a statutory nuisance.
- Service Director (Commercial & Regulatory Services): The inspection of the authority's area to detect any statutory nuisance.
- Service Director (Commercial & Regulatory Services): The investigation of any complaint as to the existence of a statutory nuisance.

**Matters to be dealt with by Council**

- No delegation: Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) Regulations 2000.
- No delegation: The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisances Act 1993 should apply in the authority's area.
- Chief Executive, Strategic Directors, and Service Directors: The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- Head of Paid Service/Chief Executive and Service Directors: The appointment of any individual (a) to any office other than an office in which he is employed by the authority;
- No delegation: The appointment of any individual (b) to any body other than: (i) the authority; (ii) a Joint Committee of two or more authorities; or (c) to any Committee or Sub-Committee of such a body and the revocation of any such appointment.
- Service Manager (Housing) or Housing Options Manager (as appropriate): The determination of appeals by tenants and housing register applicants against determinations made by officers.

**Matters to be dealt with by District Development Management Committee**

- Service Directors: The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.

**Matters to be dealt with by Staff Appeals Panel Decommissioned November 2018**

- Staff Appeals Panel

**Part 3**  
**Scheme of Delegation**  
**Appendix 2**

**Delegation of functions to other Committees**

**Appointments Panel**

- Article 8 for matters within its terms of reference: To consider appointments to Committees, subcommittees, Panels and Groups including Non-scrutiny Chairman and Vice Chairman position and make recommendations to Council.

**Area Plans Subcommittees**

- Article 10 for matters within their terms of reference and defined geographical area: Planning and Conservation. Functions relating to town and country planning and development control.

**Audit and Governance Committee**

- Article 11 for matters within its terms of reference: Providing assurance on the governance of the authority including risk and financial controls.

**District Development Management Committee**

- Article 10 for matters within its terms of reference: Planning and Conservation. Functions relating to town and country planning and development control.

**Joint Consultative Committee**

- Article 8 for matters within its terms of reference: To undertake consultation and negotiation on matters relevant to industrial relations, productivity, work arrangements and terms and conditions of employment.

**Licensing Committee and Licensing Subcommittee**

- Article 8 for matters within its terms of reference: Licensing Functions.

**Member Remuneration Panel**

- Article 8 for matters within its terms of reference: To consider the Council's Scheme of member remuneration and submit recommendations to Council.

**Overview and Scrutiny Committee (including other Scrutiny Committees)**

- Article 6 for matters within its terms of reference: The undertaking of the Council's overview and scrutiny function pursuant to Section 21 of the Local Government Act 2000.

**Parish Remuneration Panel**

- Article 8 for matters within its terms of reference: To consider any Local Council's Scheme of member remuneration and submit recommendations to that Council.

**Standards Committee**

- Article 9 for matters within its terms of reference: Promotion of high standards of conduct by Councillors in the Council and in Local Councils. Agreeing the Code of Conduct for Councillors.

## **Report to the Constitution Working Group**



**Epping Forest  
District Council**

**Report reference:**

**Date of meeting:** 28 September 2023

**Subject:** Proposed changes to the Audit and Governance Committee Terms of Reference

**Responsible Officer:** Sarah Marsh (01992 564446).

**Democratic Services Officer:** G Woodhall (01992) 564243

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### **Recommendations/Decisions Required:**

- (1) That the Constitution Working Group agrees the changes to the Audit and Governance Committee Terms of Reference and refer this to the Council for approval.**

### **Executive Summary:**

The effective operation of the Audit Committee forms a key element of the Council's assurance framework.

This report reviews the Audit and Governance Committee Terms of Reference and its compliance with guidance issued by the Chartered Institute of Public Finance and Accountancy (CIPFA).

### **Reasons for Proposed Decision:**

To ensure the Audit and Governance Committee's Terms of Reference are in line with good practice as published by CIPFA.

### **Other Options for Action:**

Not agree the proposed changes.

## **Report:**

1. The role of the of the Audit and Governance Committee has three main functions:
  - Maintenance of governance, risk, and control arrangements
  - Accountability and public reporting
  - Assurance and audit arrangements
2. These are described in detailed in the CIPFA Audit Committees Practical Guidance for Local Authorities and Police, which was updated in June 2022. The guidance includes a model Terms of Reference for a local authority Audit Committee.
3. The Audit and Governance Committee's Terms of Reference were last reviewed by themselves in November 2021. They were still in line with the CIPFA 2018 guidance, and no changes were proposed.
4. Internal Audit has compared the Audit and Governance Committee's current Terms of Reference with the CIPFA 2022 model terms of reference and minor changes are proposed (Appendix 1). These been highlighted through the use of strikethrough and bold underline for easy identification.
5. The Audit and Governance Committee agreed the changes at their 27 July 2023 meeting and to refer this to the Council for approval.

## **Resource Implications:**

There are none.

## **Legal and Governance Implications:**

The effective operation of the Audit and Governance Committee forms a key element of the Council's assurance framework. Audit Committees are not required by law but recommended as good practice by CIPFA.

## **Safer, Cleaner and Greener Implications:**

No specific implications.

## **Consultation Undertaken:**

Audit and Governance Committee

## **Risk Management**

The Audit and Governance Committee has a pivotal role in how the Council delivers good governance. The purpose of the Committee is to provide to those charged with governance independent assurance on the adequacy of the risk management framework, the internal control environment and the integrity of the financial reporting and reviewing the effectiveness of these arrangements.

## **Background Papers:**

Minutes of the Audit and Governance Committee.

## Equality Analysis:

There are no equality implications arising from the recommendations of this report.

### Appendix 1

#### AUDIT AND GOVERNANCE COMMITTEE TERMS OF REFERENCE (proposed)

##### Statement of Purpose

~~The role of the Audit and Governance Committee is a key component of the Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial statements and provides a forum for considering ethical issues and ensuring high standards of conduct.~~

~~The purpose of the Committee is to provide independent assurance to the members of the adequacy of the risk management framework and internal control environment. It provides independent review of the Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal and external audit arrangements, helping to ensure efficient and effective assurance arrangements are in place.~~

**The Committee's purpose is to provide an independent and high-level focus on the adequacy of governance, risk and control arrangements. Its role in ensuring there is sufficient assurance over governance, risk and control gives greater confidence to all those charged with governance that those arrangements are effective.**

**The Committee has oversight of both Internal and External Audit, together with the financial and governance reports, helping to ensure there are adequate arrangements in place for both internal challenge and public accountability.**

1. The specific functions of the Committee are:

##### **Governance, risk, and control**

- a. To review the Council's corporate governance arrangements against the good governance framework, **including the ethical framework, and consider the local code of governance.**
- b. To monitor the effective development and operation of risk management in the Council.
- c. To monitor progress in addressing risk-related issues reported to the Committee.  
~~to consider the Council's framework of assurance and ensure it adequately addresses the risk and priorities of the authority.~~
- d. To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.

- e. **To consider reports on the effectiveness of financial management arrangements, including compliance with the Chartered Institute of Public Finance and Accountancy (CIPFA) financial management code:**
- f. **To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.** ~~to note the Council's overall approach to value for money in ensuring the authority is making best use of its resources.~~
- g. To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.
- h. To monitor the anti-fraud and corruption strategy, actions, and resources.
- i. To review the governance and assurance arrangements for significant partnerships or collaboration.

## **Financial and governance reporting**

### **Governance reporting**

- j. To review the Annual Governance Statement (AGS) prior to approval and consider whether it properly reflects the risk environment and supporting assurances, including the Chief Internal Auditor's opinion.
- k. **To consider whether the annual evaluation for the AGS fairly concludes that governance arrangements are fit for purpose, supporting the achievement of the Council's objectives.**

### **Financial Reporting**

- l. **To monitor the arrangements and preparations for financial reporting to ensure that statutory requirements and professional standards can be met.**
- m. To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- n. To consider the External Auditor's annual letter to those charged with governance on issues arising from the audit of the accounts.  
~~To be responsible for the appointment of the Council's external auditors and ensure it is in line with the requirements of the Local Audit and Accountability Act 2014.~~

### **Arrangements for audit and assurance**

To consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.

### **External Audit**

- o. **To support the independence of External Audit through consideration of the External Auditor's annual assessment of its independence and review of any issues raised by Public Sector Audit Appointments (PSAA).**

- p. To consider the External Auditor's annual letter, relevant reports and the report to those charged with governance.
- q. **To consider specific reports as agreed with the External Auditor.**
- r. **To comment on the scope and depth of External Audit work and to ensure it gives value for money.**
- s. **To consider additional commissions of work from External Audit.**
- t. **To advise and recommend on the effectiveness of relationships between External and Internal Audit and other inspection agencies or relevant bodies.**
- u. **To provide free and unfettered access to the Audit Committee Chair for the auditors, including the opportunity for a private meeting with the committee.**  
to be responsible for the appointment of the Council's external auditors and ensure it is in line with the requirements of the Local Audit and Accountability Act 2014

### Internal Audit

- v. To approve the Internal Audit Charter.
- w. To review proposals made in relation to the appointment of external providers of Internal Audit services and to make recommendations.
- x. To approve the internal audit strategy and plan, including Internal Audit resource requirements, the approach to using other sources of assurances and any work required to place reliance upon these other sources.
- y. To approve any significant interim changes to the plan and resource requirements and make appropriate enquires of both management and the Chief Internal Auditor to determine if there any inappropriate scope or resource limitations.
- z. To consider any impairments to the independence or objectivity of the Chief Internal Auditor arising from additional roles or responsibilities outside of internal auditing and to approve and periodically review safeguards to limit such impairments.
- aa. To consider regular reports from the Chief Internal Auditor **on Internal Audit's performance during the year, including the performance of external providers of Internal Audit services (if applicable).**  
**These will include:**
  - updates on the work of Internal Audit, including key findings, issues of concern and action in hand as a result of Internal Audit work.
  - **regular reports on the results of the Quality Assurance and Improvement Programme (QAIP).**
  - reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards (PSIAS) **and Local Government Advisory Notes (LGAN)**, considering whether the non-conformance is significant enough that it must be included in the AGS.
- bb. To consider the Chief Internal Auditor's annual report, including:
  - the statement of the level of conformance with the Public Sector Internal Audit Standards and results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions of Internal Audit.

- the opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the Committee in reviewing the Annual Governance Statement.
- cc. **To consider summaries of specific Internal Audit reports as requested.**
- dd. To receive reports outlining the action taken where the Chief Internal Auditor has concluded that management has accepted a level of risk that may be unacceptable to the Council or there are concerns about progress with the implementation of agreed actions.
- ee. **To contribute to the QAIP and in particular to the external quality assessment of Internal Audit that takes place at least once every five years.**
- ff. **To consider a report on the effectiveness of Internal Audit to support the AGS where required to do so by the Accounts and Audit regulations.**
- gg. **To provide free and unfettered access to the Audit Committee Chair for the Chief Internal Auditor, including the opportunity for a private meeting with the committee.**
- a. ~~To support the development of effective communication with the Chief Internal Auditor~~

### **Treasury Management**

- hh. to be responsible for the scrutiny of the Council's Treasury Management Strategy, including receiving regular reports on activities, issues and trends to support the Committee's understanding of treasury management activities, risks and associated assurances.

### **Accountability arrangements**

- ii. to report to those charged with governance on the Committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements and Internal and External audit functions.
- jj. to report to the full Council on a regular basis on the Committee's performance in relation to the terms of reference and the effectiveness of the Committee in meeting its purpose.
- kk. **To publish an annual report on the work of the committee, including a conclusion on the compliance with the CIPFA Position Statement.**

### **Membership**

2. The Committee shall comprise 7 members, including 5 Councillors and 2 co-opted members. Councillors serving as members of the Committee shall be appointed at the Annual Council meeting of Epping Forest District Council for a term of office of one year and shall be eligible for re-appointment for further terms of office.
3. Seats on the Committee should be allocated so they are not all drawn from one political group and are also open to Councillors who are not affiliated to any political group.

4. Co-opted members shall serve for a period of 3 years from appointment. Such three-year appointments shall be overlapping in terms of their expiry dates. A co-opted member may serve for a total of two such terms as of right but may be considered for two further three-year terms, provided he or she is successful after open competition following public advertisement. Re-appointment for further terms shall be subject to satisfactory attendance.
5. Casual vacancies for members of the Committee who are Councillors which occur shall be filled at the next ordinary Council meeting (but not an extraordinary meeting) with a term of office expiring on the date of the next Annual Council meeting.

#### **Eligibility for Membership - Councillor Members**

6. Councillors appointed to the Audit and Governance Committee may not also be members of the Cabinet or any select Committee appointed by the Overview and Scrutiny Committee with responsibility for reviewing the Council's finances or financial procedures.
7. A Portfolio Holder Assistant (other than any Assistant involved in any portfolio dealing primarily with the Council's finances) appointed by the Leader of the Council shall be eligible for appointment to the Committee.
8. Appointment of Councillors shall be made on the basis of evidence of the aptitude, experience, or interest and for this purpose the normal rules for pro rata appointments shall not apply.
9. Formal attendance standards be operated in respect of the three Councillor members when reappointment is under consideration by the Council's Appointments Panel and the Chairman and co-opted members of the Audit and Governance Committee be consulted informally about the appointment or reappointment of Councillors at the appropriate time.

#### **Co-opted members**

10. Co-opted members, independent of the Council, shall be appointed by the Council on the basis of their professional expertise, experience, and background as relevant to the role and responsibilities of the Audit and Governance Committee. Initial appointments of co-opted members and the filling of casual vacancies shall be made following public advertisement and interview, the latter conducted in accordance with arrangements agreed by the Council. If the number of suitable applicants exceeds the number of co-opted places on the Committee, the Council shall keep a waiting list of suitable applicants should casual vacancies occur.

#### **Chairman and Vice-Chairman**

11. The Chairman and Vice Chairman of the Audit and Governance Committee shall be appointed at the first meeting of the Committee in each Council year for a term of one year expiring on the date of the first meeting of the Committee of the next Council year.
12. Casual vacancies in the position of Chairman and Vice-Chairman shall be filled in the same way as required in respect of members of the Committee.

13. Both Councillors and co-opted members serving on the Committee shall be eligible for appointment to the office of Chairman and Vice-Chairman.
14. Where the Chairman of the Committee is a Councillor, the Vice-Chairman will be appointed from among the Co-opted members. Where the Chairman is one of the Co-opted members, the Vice-Chairman shall be a Councillor.
15. The Chairman and Vice-Chairman shall be eligible for re-appointment.

### **Meetings of the Committee**

16. The Committee shall meet at least three times each financial year.
17. The Committee shall be entitled to require any Member, Director, their representatives, or any other officer to attend their meetings in order to discuss any matters under discussion including the annual audit programme.

### **Decision Making**

18. Only the Councillors and co-opted members serving on the Committee shall be entitled to vote.
19. All members of the Committee shall be entitled to all documents, advice, and facilities relevant to their membership of the Committee, regardless of their status as either a Councillor or Co-opted member.

### **Other Requirements**

20. All members of the Committee shall respect the confidentiality of Council information and proceedings where appropriate, particularly where exempt or confidential business is involved.
21. All co-opted members of the Committee shall be required to make a statutory registration of interests in the same form as those required of serving Councillors and to be aware at all times of the requirement to clear any interest relating to their work on the Committee.
22. Members of the Committee should seek to attend all meetings of the Committee unless there are exceptional circumstances which prevent this.
23. All members of the Committee should ensure that they participate fully in any training designed to assist them in their responsibilities as members of the Committee. Similarly, all members should act on appropriate advice and other information supplied by the Council to improve their effectiveness.